

**CONTROLLED
DOCUMENT**



Birmingham and Solihull
Integrated Care Board



Procurement Policy			
Type of Document	Policy		
Purpose	This policy sets out the legal framework within which all Trust Procurements must be conducted in.		
Controlled Document Number	1462	Version Number	1.0
Document Sponsor	Chief Financial Officer		
Document Lead	Managing Director of Procurement		
Policy Status	Birmingham & Solihull (BSOL) Procurement Collaborative		
Date Ratified	13/05/25	Review date	13/05/28
This Policy is essential reading for:	All staff involved in the procurement of goods and/or services.		
Information for:	All staff		
What has changed since the last version of this controlled document?	This is a new Policy document.		

Contents Page

1	Policy Statement.....	1
2	Scope	1
3	Interpretation and Abbreviations	2
4	Document Approval and Review	3
5	Applicable Legislation	3
6	Procurement Principles	5
7	Provider Selection Regime	6
8	Procurement Act 2023	9
9	Procurement Review Unit.....	20
10	Public Contracts Regulations 2015	20
11	Equality and Diversity	21
12	Ethical Conduct.....	21
13	Requests to Purchase Goods and/or Services.....	21
14	Responsibilities And Authority	22
15	NHS England Spending Controls.....	22
16	Contracts.....	23
17	Conflicts of Interest	24
18	Economic, Social and Environmental Implications	27
19	Duties	27
20	Implementation and Monitoring	29

1 Policy Statement

- 1.1 This policy provides an overview of the procurement principles and the framework for procurement activity which will be applied by the Birmingham & Solihull Procurement Collaborative when carrying out procurement on behalf of the following five Trusts in order to ensure regulatory and legislative compliance:
 - 1.1.1 University Hospitals Birmingham NHS Foundation Trust;
 - 1.1.2 Birmingham Women's and Children's NHS Foundation Trust;
 - 1.1.3 Royal Orthopaedic Hospital NHS Foundation Trust;
 - 1.1.4 Birmingham Community Healthcare NHS Foundation Trust; and
 - 1.1.5 Birmingham and Solihull Mental Health NHS Foundation Trust (together, the "Trusts").
- 1.2 This policy aims to underpin the Trusts' Procurement Plan and support key recommendations from the latest statutory guidance.
- 1.3 The objectives of this policy are to:
 - 1.3.1 Comply with the Regulatory and Legal framework in conducting procurement and ensure that the Trusts' practices stand up to Audit scrutiny;
 - 1.3.2 Mandate a consistent approach to all commercial dealings and set out best practices which must be followed at all stages of the procurement cycle;
 - 1.3.3 Ensure procurement is in line with each Trust's Strategy, delivers best value for each Trust, and supports the Cost Improvement Programme; and
 - 1.3.4 Ensure that sustainability principles are given due consideration at each stage of the procurement process.
- 1.4 This policy also incorporates the No Purchase Order, No Payment Policy (No PO, No Pay). The No Po, No Pay Policy/ and other Controls are widely used across all Trusts, failure to comply with this policy/ controls could result in delayed, or no payment to the supplier. The objective of this is:
 - 1.4.1 Purchase Orders must be raised and then submitted to the supplier prior to any Goods, Services or Works being carried out.
 - 1.4.2 The purchase order is an official document accompanied by the standard NHS terms and conditions.
 - 1.4.3 Purchase orders should not be raised retrospectively when an invoice has been received.
 - 1.4.4 An invoice should always quote the official Purchase Order number

2 Scope

- 2.1 The requirements set out in this policy must be followed by all members of staff involved in the procurement process, including:
 - 2.1.1 All budget holders;
 - 2.1.2 Anyone who has contact with external suppliers;
 - 2.1.3 Anyone involved in raising requisitions;
 - 2.1.4 Anyone involved in evaluating equipment, goods, services or works for potential purchase; and

- 2.1.5 Anyone with operational responsibility for an insourced/outsourced service provision.
- 2.2 All expenditure by the Trusts in relation to goods, services and works is subject to this policy. The following areas are outside the scope of this policy:
 - 2.2.1 Leases (Equipment leases is included in the PSR & New Bill), including rent;
 - 2.2.2 Grant funding; and
 - 2.2.3 Contracts of employment.
- 2.3 The requirements in this policy should be considered during the entire lifecycle of a procurement, from identification of the business need to post-contract award management and termination.
- 2.4 This policy is not intended as a “how to” guide. If you are in any doubt as to whether the requirements referred to in this policy applies to a particular step, you should discuss this with the BSOL Procurement Team.

3 Interpretation and Abbreviations

- 3.1 The following terms are used throughout this policy:

Term	Meaning
BSOL	The Birmingham & Solihull Procurement Collaborative
CCR 2016	Concession Contracts Regulations 2016
CFO	Chief Financial Officer
CMU	Commercial Medicines Unit
COO	Chief Operating Officer
CPEG	Clinical Product Evaluation Group
MDoP	Managing Director of Procurement
FTS	Find-a-Tender Service
PA 2023	Procurement Act 2023
PCR 2015	Public Contracts Regulations 2015
PO	Purchase Order
PSED	Public Sector Equality Duty
PSR	Health Care Services (Provider Selection Regime) Regulations 2023
PRU	Procurement Review Unit
VFM	Value for Money

Please note that full life contract value means the total value of the contract over its term, including any extension provided for in the contract terms (e.g. a contract that is valued at £10,000 per year for 3 years would have a full life contract value of £30,000).

4 Document Approval and Review

- 4.1 The BSOL Procurement Team is responsible for preparing all procedural documents associated with this policy, and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy. This policy will be reviewed by the BSOL Procurement Team at least every three years and will be updated from time to time in accordance with developments in the Regulatory and Legal framework (see Legislation and References sections). The Chief Financial Officer for each of the Trusts shall approve revisions to this policy and all procedural documents associated with this policy. In the event of a change in the Regulatory and Legal framework, the new law and/or any mandated guidance will prevail over this policy until such time as the policy can be updated.

5 Applicable Legislation

- 5.1 There is a range of different legislation governing the conduct of procurement by the Trusts. Which legislation applies, and therefore the Trusts' obligations, is determined by the nature of the works, goods or services and the timing of the procurement.
- 5.2 There are a range of procurement routes under the Regulations. The procedure to be followed in each case will largely depend on the type of goods, services or works being procured and the complexity of the procurement. Staff must also bear in mind that the Regulations set out stringent timescales which differ depending on the route being followed. Budget holders should seek the advice of the Procurement Department who can advise on the most appropriate procedure to be followed in each case.
- 5.3 Value for Money (VFM) and Whole Life Costs (WLC)
- 5.3.1 The prime objective of public procurement is to achieve VFM. Best overall VFM is the optimum combination of whole life costs and quality to meet the requirement, not just the lowest short-term price. Trust policy is that best overall VFM in terms of whole life costs and quality be achieved in the purchase of all goods, services and works.
- 5.3.2 Through working with clinical leads, budget managers and the supply market to achieve cash releasing savings to support the Trusts' Cost Improvement Programme (CIP), whilst maintaining or improving the quality of goods and services for the benefit of patients. Through compliant purchasing techniques and procedures, the Department aims to achieve its contribution towards the NHS savings targets, as determined by the DHSC and/or NHS England.
- 5.3.3 Meeting an internal customer's requirements in order to benefit patient care and organisational efficiency is fundamental. However, the Procurement Department must ensure that end-user needs are tested critically for cost effectiveness. This is done by ensuring the Trusts only go out to the supplier market once a robust specification for the goods, services and works has been developed and a clear, documented agreement has been reached on how suppliers' offers are to be evaluated.
- 5.3.4 Whole life cost evaluations take into account all aspects of cost over the life span of the contract. For example, the cost of a purchase of

equipment will need to include any annual maintenance, disposal costs and running costs including the cost of consumables. All members of staff involved in the procurement process are responsible for ensuring that best VFM is achieved through the procurement process and throughout the whole procured lifecycle of goods, services and works.

- 5.4 The relevant legislation and section(s) of this policy document are summarised below. You must consider the detailed guidance referred to in the relevant section(s) of this document before deciding which route to follow.

Nature of Contract	Legislation	Specific sections
Relevant health care services for the purposes of the health service in England, whether alone or as part of a mixed procurement caught by the PSR.	Health Care Services (Provider Selection Regime) Regulations 2023	6.3 and 7
Services not falling within the scope of the PSR where the procurement commenced before 24 February 2025	Public Contracts Regulations 2015, Concession Contracts Regulations 2016 or Utilities Contracts Regulations 2016 as applicable.	6.4 and 9 <i>NB: this policy only deals with procurements falling within the PCR 2015. Where the CCR 2016 or UCR 2016 apply, guidance should be sought from the Procurement Team.</i>
Services not falling within the scope of the PSR where the procurement commenced on or after 24 February 2025	Procurement Act 2023	6.5 and 8

- 5.5 For services falling outside the scope of the PSR, whether the PCR 2015 or PA 2023 applies is determined by reference to the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024 (as amended). In those cases, the PCR 2015 will continue to apply in the following circumstances:

- 5.5.1 Procurements commenced and contracts awarded before 24 February 2025 under the PCR 2015 must continue to be managed under the PCR until:
- 5.5.1.1 The end of the contract (for whatever reason).
 - 5.5.1.2 If no contract is awarded, the procurement process ends.
 - 5.5.1.3 For framework agreements, the end of the last contract awarded under the framework agreement during the term of the framework agreement.
 - 5.5.1.4 For dynamic purchasing systems, the end of the last contract awarded under the dynamic purchasing system

during the term of the dynamic purchasing system (although note that any existing DPS is required to end on the earlier of the expiry of the DPS contract or 23 February 2029).

- 5.5.2 Competitive procurements are considered to be 'commenced' when:
 - 5.5.2.1 a contract notice has been submitted to be published under the PCR 2015; or
 - 5.5.2.2 a below-threshold contract opportunity is published under the PCR 2015.
- 5.5.3 Direct awards are considered to be 'commenced' where a Trust has contacted a supplier in order to commence the negotiated procedure without prior publication in accordance with regulation 32 of the PCR 2015.
- 5.5.4 Contracts awarded through a framework established under the PCR 2015 must continue to be managed under the PCR 2015 until they are terminated, or until such date when the framework naturally expires.
- 5.6 Further information is provided in the [Cabinet Office Guidance on Transitional and Saving Arrangements](#).

6 Procurement Principles

- 6.1 Procurement decisions made by the Trusts must be made in accordance with the principles set out in the applicable legislation.
- 6.2 In addition, in all cases, procurement decisions made by the Trusts must be made following due consideration of the following factors:
 - 6.2.1 Value for Money and Whole life costs;
 - 6.2.2 Risk Management;
 - 6.2.3 Clinical Effectiveness;
 - 6.2.4 Total Supply Chain Costs/Routes
 - 6.2.5 Product Rationalisation and Standardisation;
 - 6.2.6 Competition;
 - 6.2.7 Transparency;
 - 6.2.8 Stock Holdings and Management;
 - 6.2.9 Environmental Impact/Sustainable Procurement; and
 - 6.2.10 Equality and Diversity.
- 6.3 For the avoidance of doubt, nothing in this policy is intended to impact on pharmacy purchasing via the Commercial Medicine Unit, who shall ensure compliance with procurement law as required.
- 6.4 Provider Selection Regime
 - 6.4.1 Where procurements are caught by the PSR, the Trusts must make decisions in the best interests of people who use the service when following the PSR. To do this, the Trusts must act in accordance with the procurement principles set out in regulation 4 of the PSR, namely acting:

- 6.4.1.1 with a view to (i) securing the needs of the people who use the services; (ii) improving the quality of the services; and (iii) improving efficiency in the provision of the services; and
 - 6.4.1.2 transparently, fairly and proportionately.
 - 6.4.2 When acting in accordance with these procurement principles, the Trusts may consider the value of providing services in an integrated way, including with other health care services, health-related services or social care services.
- 6.5 Public Contracts Regulations 2015
- 6.5.1 When managing contracts or conducting procurements which remain subject to the PCR 2015, the Trusts must act in accordance with the procurement principles set out in regulation 18 of the PCR 2015, including:
 - 6.5.1.1 treating economic operators equally and without discrimination and acting in a transparent and proportionate manner;
 - 6.5.1.2 not designing any procurement with the intention of excluding it from the scope of the PCR 2015 or of artificially narrowing competition (including where the design of the procurement is intended to unduly favour or disadvantage certain economic operators); and
 - 6.5.1.3 not terminating public contracts in a manner that circumvents their obligations under Parts 2 and 3 of the PCR 2015.
- 6.6 Procurement Act 2023
- 6.6.1 When carrying out a covered procurement under the PA 2023, the Trusts must do so in accordance with the objectives in section 12 of the PA 2023, namely:
 - 6.6.1.1 having regard to the importance of:
 - 6.6.1.1.1 delivering value for money;
 - 6.6.1.1.2 maximising public benefit;
 - 6.6.1.1.3 sharing information for the purpose of allowing suppliers and others to understand the Trust's procurement policies and decisions;
 - 6.6.1.1.4 acting, and being seen to act, with integrity;
 - 6.6.1.2 treating suppliers the same unless a difference between the suppliers justifies different treatment;
 - 6.6.1.3 where a Trust considers that different treatment is justified in a particular case, the Trust must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage; and
 - 6.6.1.4 having regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and considering whether such barriers can be removed or reduced.

7 Provider Selection Regime

7.1 Application

- 7.1.1 Whenever any of the Trusts procures relevant healthcare services for the purposes of the health service in England, that Trust will need to comply with the PSR. The scope of the PSR is set out in regulation 3 of the PSR and “relevant health care services” is defined in regulation 2 and Schedule 1 of the PSR.
- 7.1.2 Where relevant healthcare services are procured together with other goods or services, the procurement will be considered a “mixed procurement” subject to the requirements of the PSR where the conditions in regulation 3(3) of the PSR are met. Where those conditions are not met, the procurement will be subject to the PCR 2015 or PA 2023, depending when it is or was commenced.
- 7.1.3 Please refer to the [NHS England Statutory Guidance](#) for more information.

7.2 Awarding Contracts

- 7.2.1 When awarding a contract for a new or existing relevant health care service subject to the PSR, each Trust must follow one of the five provider selection processes provided for by the PSR:
 - 7.2.1.1 Direct Award Process A;
 - 7.2.1.2 Direct Award Process B;
 - 7.2.1.3 Direct Award Process C;
 - 7.2.1.4 Most Suitable Provider Process; or
 - 7.2.1.5 Competitive Process.
- 7.2.2 The criteria which determine which provider selection process applies are set out in regulation 6 of the PSR. Where the tests for Direct Award Process A or Direct Award Process B are met, the Trust must follow that particular process and is not permitted to choose a different process.
- 7.2.3 When selecting a provider by following Direct Award Process C, the Most Suitable Provider Process, the Competitive Process, establishing a framework or calling off from a framework by way of a mini-competition, the Trusts must take into account the key criteria defined in regulation 5 of the PSR and apply basic selection criteria determined in accordance with schedule 16 of the PSR. The Trusts must comply with regulation 20 of the PSR in relation to providers who meet the exclusion criteria detailed in that regulation.

7.3 Modifying Contracts

- 7.3.1 The Trusts may only modify a contract or framework agreement which is subject to the PSR during its term without following a new procurement process in the circumstances set out in regulation 13 of the PSR. In doing so, the Trusts must comply with the transparency requirements set out in regulation 13.
- 7.3.2 Further information on permitted modifications is set out in the relevant [NHS England Statutory Guidance](#).

7.4 Urgent Circumstances

- 7.4.1 There are only very limited circumstances, set out in regulation 14 of the PSR and explained further in the relevant [NHS England Statutory Guidance](#), where it will be appropriate to make:

- 7.4.1.1 an urgent award without following one of the provider selection processes in regulation 6 of the PSR; or
- 7.4.1.2 an urgent modification without satisfying the requirements in regulation 13 of the PSR.
- 7.4.2 Guidance must be sought from the BSOL Procurement Team as soon as possible if you consider that an urgent award or modification pursuant to regulation 14 of the PSR might be necessary.
- 7.5 Transparency
- 7.5.1 The Trusts must make and keep clear and accurate internal records of their decision-making processes and rationale containing the information specified in regulation 24 of the PSR when:
- 7.5.1.1 following any provider selection processes;
- 7.5.1.2 concluding a framework agreement;
- 7.5.1.3 awarding a contract based on a framework with or without competition; and
- 7.5.1.4 where the Trust abandons a process or decides to return to an earlier step in the process.
- 7.5.2 The Trusts must also keep records of their decision-making processes and rationale in accordance with the [NHS England Statutory Guidance](#) when:
- 7.5.2.1 modifying a contract;
- 7.5.2.2 awarding or modifying a contract in urgent circumstances; and
- 7.5.2.3 contracting for mixed procurements, including how the Trust considers the procurement meets the requirements for a mixed procurement under the PSR.
- 7.5.3 The Trusts must publish an annual summary containing the information set out in regulation 25 of the PSR no later than six months following the end of the financial year it relates to. The Trusts will monitor their compliance with the PSR and publish the results of the monitoring annually in accordance with regulation 26 of the PSR together with their annual summary. The BSOL Procurement team will maintain records which can be collated to prepare the annual summary for each Trust.
- 7.5.4 The Trusts must publish all notices required by the PSR on FTS. The notices required for each process are summarised in the table below.

Process	Notices
Direct Award Process A	Notice of award including the information in Schedule 2 of the PSR
Direct Award Process B	Notice of award including the information in Schedule 2 of the PSR
Direct Award Process C	<ul style="list-style-type: none"> • Notice of intention to make an award including the information in Schedule 3 of the PSR • Notice of award including the information in Schedule 4 of the PSR

Most Suitable Provider Process	<ul style="list-style-type: none"> • Notice of intention to follow the Most Suitable Provider Process including the information in Schedule 5 of the PSR • Notice of intention to make an award including the information in Schedule 6 of the PSR • Notice of award including the information in Schedule 7 of the PSR
Competitive Process	<ul style="list-style-type: none"> • Notice inviting offers including the information in Schedule 8 of the PSR • Notice of intention to make an award or conclude a framework agreement including the information in Schedule 10 of the PSR • Notice of award including the information in Schedule 11 of the PSR
Contracts based on a framework agreement without a competition	Notice of award including the information in Schedule 2 of the PSR
Contracts based on a framework agreement following competition	<ul style="list-style-type: none"> • Notice inviting offers including the information in Schedule 15 of the PSR • Notice of intention to make an award including the information in Schedule 10 of the PSR • Notice of award including the information in Schedule 11 of the PSR
Contract modifications	Where the conditions in regulation 13(4) are met, a notice of the modification including the information in Schedule 12 of the PSR
Urgent award	Notice of urgent award including the information in Schedule 13 of the PSR
Urgent modification	Notice of urgent modification including the information in Schedule 14 of the PSR

7.6 Representations

- 7.6.1 Guidance should be sought from the BSOL Procurement Team wherever any expression of dissatisfaction relating to a PSR process is received by any of the Trusts.
- 7.6.2 Where a valid representation against a provider selection decision is received by any Trust or the BSOL Procurement Team, the relevant Trust(s) must deal with the representation in accordance with regulation 12 of the PSR and each Trust's internal governance mechanism for dealing with representations.

8 **Procurement Act 2023**

- 8.1 The PA 2023 applies to any procurement process commenced on or after 24 February 2025.

8.2 Exempted Contracts

8.2.1 Contracts of a kind listed in Schedule 2 of the PA 2023 are exempt from the rules in the PA 2023. Part 1 relates to contracts which are exempted due to the nature of the relationship between the contracting authority and the other party to the contract and Part 2 relates to contracts which are exempted because of the nature of the subject matter of the contract.

8.2.2 Further information is available in the [Cabinet Office Guidance on Exempted Contracts](#). The BSOL Procurement Team will advise on the approach where a contract appears to be exempt.

8.3 Permitted Routes to Contract Award

8.3.1 The following are the Trusts' standard routes to award a contract for goods and services. These do not apply to works contracts.

8.3.2 The thresholds within the PA 2023 will be updated every two years. Please confirm with the BSOL Procurement Team if the thresholds in this table have not been amended following an update to the thresholds for the PA 2023.

Estimated Value (goods and services only)	Available routes to award a contract
Less than £12,000 including VAT.	Single quotation. No competition required.
Equal to or greater than £12,000 including VAT and less than £50,000 including VAT.	You must either: <ol style="list-style-type: none">1. award a contract in accordance with an appropriate framework with or without competition; or2. invite quotes (but not tenders) from a closed group of pre-selected suppliers or one or more targeted individual suppliers, provided you do not advertise the procurement in any other way.
Equal to or greater than £50,000 including VAT and less than the threshold stated in Schedule 1 to the PA 2023 (currently £139,688 including VAT).	You must either: <ol style="list-style-type: none">1. award a contract in accordance with an appropriate framework with or without competition; or2. follow a below-threshold procedure and either:<ol style="list-style-type: none">a. invite tenders from a closed group of pre-selected suppliers or one or more targeted individual suppliers, provided you do not advertise the procurement in any other way; orb. invite tenders by publishing a below-threshold tender notice.

Equal to or greater than the threshold stated in Schedule 1 to the PA 2023 (currently £139,688 including VAT).	<p>You must follow one of the below procedures:</p> <ol style="list-style-type: none"> 1. award a contract in accordance with an appropriate framework with or without competition; 2. a competitive tendering procedure, in the form of either an open procedure or a competitive flexible procedure, which is the default for most procurements; or 3. a direct award, which is only available in limited circumstances.
--	---

8.4 Single Tender Action requests

8.4.1 The Single Tender requests, a waiving of the competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure unless one of the justifications in Schedule 5 of the PA 2023 is met. Where it is decided that competitive tendering is not applicable and should be waived, the completion of a Single Tender Action/ Waiver form is required, and the reasons should be documented and recorded in an appropriate Trust record and reported to the Audit Committee at each meeting

8.5 Permitted Routes to Contract Award – Light Touch Services

8.5.1 The following are the Trusts' standard routes to award a contract for goods and services of a kind listed in Schedule 1 to the Procurement Regulations 2024 (light touch services).

8.5.2 The thresholds within the PA 2023 will be updated every two years. Please confirm with the BSOL Procurement Team if the thresholds in this table have not been amended following an update to the thresholds for the PA 2023.

8.6 Risk Management

8.6.1 Risks are managed through the Trust's Risk Management process as laid down in the Risk Management Policy. When procuring goods and services the following should be mitigated (without limitation), to avoid unnecessary risk

8.6.2 Conflict of Interest

8.6.3 Competitive Markets

8.6.4 Value for Money

8.6.5 Sustainability and Social Value

8.7 Specific Risk Considerations

8.7.1 Information Governance and Security

8.7.1.1 For contracts where the third-party supplier will either have access to the Trust network, information systems or data or where Trust data will be hosted on external systems (including cloud); appropriate due diligence must be carried out and relevant contractual clauses

- included in the contract. The precise requirements will vary depending on the risk rating arising from completion of a Privacy Impact Assessment which will be completed by the Information Governance team in conjunction with the Budget Holder and/or end user. Contracts with a high-risk rating may require the supplier to submit an Information Security Plan with their tender.
- 8.7.1.2 Further guidance can be found on the Trusts intranet and the procurement website.
 - 8.7.1.3 Advice from the Procurement Department and/or Information Governance Team must be sought in relation to any contract that will involve access to or handling of personal or sensitive data.
- 8.7.2 Medical Devices/Equipment Procurement
- 8.7.2.1 All medical device/equipment procurements will be undertaken in line with the financial thresholds for competitive sourcing and the process outlined in the Trust's medical devices policies and procedures. Medical device/equipment contracts with a value above the tender threshold will be subject to open competition and advertised to the supplier market.
 - 8.7.2.2 Stakeholders should not agree to share the Trust's intellectual property rights during the course of trials without first completing a written contract governing the use of those rights.
 - 8.7.2.3 A specification will be developed by the Lead Trial Coordinator and agreed with the procurement department, to allow for suppliers' offers to be clearly evaluated. It is the responsibility of the Lead Trial Coordinator to confirm to their satisfaction that the Trust has available the necessary level of expertise in-house to identify the requirement and to develop the specification. When this is not the case, the use of outside agencies/consultants to provide this expertise must be considered. The Lead Trial Coordinator must devise clear acceptance criteria which will be used to evaluate the efficiency of the medical device/equipment.
 - 8.7.2.4 Trials of medical devices/equipment will only be undertaken within a clear framework for the evaluation process and identification of costs involved and included in the Trial evaluation form completed by the Trial Group. A clear distinction will be agreed between 'qualitative' and 'financial' aspects. This will enable the whole-life costs to the Trust of owning the equipment to be assessed in conjunction with the suitability of the equipment for its intended purpose.
 - 8.7.2.5 Contracts will only be awarded once relevant budget holders have confirmed their acceptance of all revenue consequences for the procurement, including those for maintenance and consumables.

- 8.7.2.6 Consideration must be given to software which might be classified as a 'medical device' under current legislation (through the Medical Devices Regulations 2002 (SI 2002 No 618, as amended) (UK MDR 2002) to ensure the product has the correct CE marking. Such devices will also bring additional challenges around cyber security (e.g. unsupported versions of software).
 - 8.7.2.7 Unmonitored medical device/equipment trials may compromise patient safety and constitute a breach to existing contracts if not notified to the Procurement Department. All trials must be recorded on the trial register held by Procurement Team.
 - 8.7.2.8 The supplier must be listed on the National Master Indemnity Agreement prior to the commencement of a trial for medical equipment. Further information can be found on the Procedure for the Trials and Evaluation of Medical Devices and/or the Medical Engineering team.
 - 8.7.2.9 The Trust must not accept donated equipment for use but instead ask for financial donations to be made to the Trust's charitable funds. This is to ensure the Trust is the contracting party with the equipment supplier and not a third party. If a third party contracts on the Trust's behalf the Trust will not have the necessary rights of redress in contractual law. It is therefore more beneficial to the Trust to purchase the equipment directly from the supplier concerned to ensure a direct contractual relationship is established. When equipment is purchased from donated funds, it is the responsibility of the budget holder(s) in the areas the equipment will be utilised to ensure that any on-going revenue consequences of using the equipment, e.g. consumables, maintenance are affordable, offer VFM and can be funded from existing revenue streams.
- 8.7.3 Clinical Effectiveness
- 8.7.3.1 Maintaining high clinical standards in the delivery of patient care, using medical equipment/devices that are for the intended purpose and represent value for money.
 - 8.7.3.2 All procurement activity should ensure it is assessed by the Clinical Procurement Specialist Team. This will later be presented to the Clinical Procurement Evaluation Group (CPEG) prior to approval, including Information Governance requirements
- 8.7.4 Product Rationalisation and Standardisation
- 8.7.4.1 The Trust undertakes a product rationalisation programme and where appropriate, standardisation, overseen by CPEG. This helps to maximise the VFM the Trust can obtain through the consolidation of products. Product standardisation can also reduce clinical risk through elimination of unnecessary variation in the

ranges of clinical products used for the same procedures as well as reducing training and maintenance costs.

Estimated Value	Available routes to award a contract
Less than £12,000 including VAT.	Single quotation. No competition required.
Equal to or greater than £12,000 including VAT and less than £50,000 including VAT.	You must either: <ol style="list-style-type: none"> 1. award a contract in accordance with an appropriate framework with or without competition; or 2. invite quotes (but not tenders) from a closed group of pre-selected suppliers or one or more targeted individual suppliers, provided you do not advertise the procurement in any other way.
Equal to or greater than £50,000 including VAT and less than the threshold stated in Schedule 1 to the PA 2023 (currently £663,540 including VAT).	You must either: <ol style="list-style-type: none"> 1. award a contract in accordance with an appropriate framework with or without competition; or 2. follow a below-threshold procedure and either: <ol style="list-style-type: none"> a. invite tenders from a closed group of pre-selected suppliers or one or more targeted individual suppliers, provided you do not advertise the procurement in any other way; or b. invite tenders by publishing a below-threshold tender notice.
Equal to or greater than the threshold stated in Schedule 1 to the PA 2023 (currently £663,540 including VAT).	You must follow one of the below procedures: <ol style="list-style-type: none"> 1. award a contract in accordance with an appropriate framework with or without competition; 2. a competitive tendering procedure, in the form of either an open procedure or a competitive flexible procedure, which is the default for most procurements; or 3. a direct award, which is only available in limited circumstances.

8.8 Excluding Suppliers

- 8.8.1 When running a procurement under the PA 2023, the Trusts are obliged to assess whether a potential supplier or an associated person (as defined in section 26(4) of the PA 2023) is 'excluded' or

‘excludable’, including checking whether the potential supplier or its associated person is included on the debarment list.

8.8.2 The meaning of ‘excluded’ and ‘excludable’ suppliers is set out in section 57 of the PA 2023 and summarised below.

Excluded (mandatory exclusion)	Excludable (discretionary exclusion)
<p style="text-align: center;">Either:</p> <ol style="list-style-type: none"> 1. a mandatory exclusion ground set out in Schedule 6 to the Act applies to the supplier or an associated person and the circumstances giving rise to that ground are continuing or likely to recur; or 2. the supplier or an associated person is on the debarment list by virtue of a mandatory exclusion ground. 	<p style="text-align: center;">Either:</p> <ol style="list-style-type: none"> 1. a discretionary exclusion ground set out in Schedule 7 to the Act applies to the supplier or an associated person and the circumstances giving rise to that ground are continuing or likely to recur; or 2. the supplier or an associated person is on the debarment list by virtue of a discretionary exclusion ground.

8.8.3 When considering whether exclusion grounds are continuing or likely to recur, the Trusts are required to take the steps in section 58 of the PA 2023. The Trusts may consider the factors set out in section 58(1) of the PA 2023. The Trusts are also obliged to give suppliers a reasonable opportunity to make representations and provide evidence as to whether the exclusion grounds apply and whether the circumstances are likely to arise again.

8.8.4 The Trusts are required to comply with section 28 of the PA 2023 and when conducting a competitive tendering procedure, the Trusts must verify whether potential suppliers’ intended subcontractors appear on the debarment list and may request information to determine whether an intended subcontractor is an excluded or excludable supplier. If the potential supplier intends to subcontract to an excluded or excludable supplier, then the potential supplier must be treated as an excluded or excludable supplier themselves as appropriate. In these circumstances, the Trusts must notify the potential supplier of their intention and give them a reasonable opportunity to find an alternative subcontractor.

8.8.5 Where a supplier is excluded or excludable, the Trusts must (for excluded suppliers) or may (for excludable suppliers):

- 8.8.5.1 disregard tenders in a competitive procedure;
- 8.8.5.2 prevent the supplier from participating or progressing in a competitive flexible procedure;
- 8.8.5.3 remove the supplier from any dynamic market; and
- 8.8.5.4 not award contracts to the supplier under framework agreements.

8.8.6 In addition, excluded suppliers must not be awarded direct awards in special cases under section 41 unless there is an overriding public interest. Contracts awarded under the PA 2023 will include an implied term that they can be terminated where a supplier becomes excluded or excludable.

- 8.8.7 The Trusts are required to give notice to the Debarment Review Service in certain circumstances involving excluded and excludable suppliers, which are set out in section 59 of the Act. Before giving any such notice, the Trusts must seek guidance from the BSOL Procurement Team.
- 8.8.8 Further information is available in the Cabinet Office Guidance on [Exclusions](#) and [Debarment](#).
- 8.9 **Competitive Procedures**
- 8.9.1 Following a competitive procedure, the Trusts must award public contracts to the supplier that submits the **most advantageous tender**, which is the tender that the Trusts considers:
- 8.9.1.1 satisfies the Trusts' requirements, and
 - 8.9.1.2 best satisfies the award criteria when assessed by reference to the assessment methodology and relative importance of the award criteria.
- 8.9.2 The Trusts must conduct one of the two forms of competitive tendering procedure defined in section 20 of the PA 2023:
- 8.9.2.1 an open procedure – which is a single-stage tendering procedure without a restriction on who can submit tenders; and
 - 8.9.2.2 a competitive flexible procedure – which allows the Trusts to design a process which they consider appropriate.
- 8.9.3 When selecting and designing a competitive procedure, the Trusts must ensure that it is a proportionate means of awarding the contract, having regard to the nature, complexity and cost of the contract.
- 8.9.4 The process to be followed when conducting a competitive tendering procedure is set out in sections 19 to 27 of the PA 2023 and further information is available in the [Cabinet Office Guidance on Competitive Tendering Procedures](#).
- 8.9.5 Conditions of participation may be set in accordance with the requirements in section 22 of the PA 2023 where they are a proportionate means of ensuring that potential suppliers have the legal and financial capacity and technical ability to perform the contract. Any conditions of participation must be set out in the tender notice and any associated tender documents. Further information can be found in the [Cabinet Office Guidance on Conditions of Participation](#).
- 8.9.6 Award criteria must comply with the requirements in section 23 of the PA 2023. Please see the [Cabinet Office Guidance on Assessing Competitive Tenders](#) for further information on award criteria.
- 8.9.7 Before publishing a contract award notice, the Trusts must issue each potential supplier that submitted an assessed tender with an assessment summary which provides information to enable them to understand why their tender was either successful or unsuccessful. For more information on assessment summaries, please refer to the [Cabinet Office Guidance on Assessment Summaries](#).
- 8.9.8 Following publication of a contract award notice, a standstill period must be observed in accordance with section 51 of the PA 2023 (unless any of the exemptions in section 51(3) apply). Further

information on standstill periods is available in the [Cabinet Office Guidance on Contract Award Notices and Standstill](#).

- 8.9.9 The Trusts are permitted to make provision in competitive flexible procedures for participation to be limited to supported employment provides in accordance with section 32 of the PA 2023. Further information is available in the [Cabinet Office Guidance on Reserving Contracts for Supported Employment Providers](#). Guidance should be sought from the BSOL Procurement Team where this option is being considered.

8.10 Modifying Competitive Procedures

- 8.10.1 During the course of a competitive process, it might become necessary to make amendments or clarifications to information in the tender notice or associated tender documents to deal with circumstances that were not anticipated. In the event that you believe that you want to modify a competitive process, advice should be sought from BSOL's Procurement Team.
- 8.10.2 Further information on modifying competitive procurements is available in the [Cabinet Office Guidance on Modifying a Competitive Procurement](#).

8.11 Direct Awards

- 8.11.1 The Trusts may only directly award a public contract in limited circumstances where section 41 (special cases), section 42 (to protect life and public order/safety) or section 43 (no suitable tenders have been received in response to an invitation to tender) of the PA 2023 apply. Please see the [Cabinet Office Guidance on Direct Award](#) for further information.
- 8.11.2 A competitive tendering procedure is the Trusts' default option for most procurements. Competition is key to ensuring value for money. In the event that you believe that a direct award might be appropriate and/or necessary, advice should be sought from BSOL's Procurement Team.

8.12 Below Threshold Procurements

- 8.12.1 The PA 2023 provides greater flexibility in designing and running a procurement and awarding and managing the resulting contract where that contract is below the thresholds set out in Schedule 1 to the Act. The requirements applicable to below threshold contracts are set out in sections 84 to 88 of the PA 2023 and further information is available in the [Cabinet Office Guidance on Below-Threshold Contracts](#).
- 8.12.2 The Trusts' policy is that, as a default, the procedures set out in the "Permitted Routes to Contract Award" sections of this document will be followed to award contracts which fall below the relevant threshold. If you wish to deviate from these procedures, you must seek guidance from the BSOL Procurement Team.
- 8.12.3 If it is necessary to modify a below threshold contract so that it becomes a fully regulated public contract following the modification, this is known as a convertible contract. Following the modification of

the convertible contract, the contract is subject to the provisions in the Act that govern public contracts, rather than the provisions specific to below-threshold contracts.

8.13 Modifying Contracts

8.13.1 The Trusts may only modify contracts without undertaking a new procurement process in the circumstances set out in section 74 of the PA 2023, where the proposed modification is:

8.13.1.1 A permitted modification under Schedule 8 of the PA 2023.

8.13.1.2 Not a substantial modification. Examples of modifications which would be considered substantial include: increasing or decreasing the term of the contract by more than 10% of the maximum term provided for on award; adding goods, services and/or works to the contract; or materially altering the terms of the contract in favour of the provider.

8.13.1.3 A below-threshold modification. This involves considering the value of the proposed variation or modification (and previous variations or modifications) as a percentage of the original contract and whether the modification would materially change the scope of the contract.

8.13.1.4 A modification to a light touch contract.

8.13.2 Any variations must be appropriately documented and the transparency requirements in the PA 2023 must be complied with. Consideration should be given as to whether the Trusts ought to observe a voluntary standstill under section 76 of the PA 2023.

8.13.3 In the event that a Trust considers that a contract might need to be modified, it must refer this to the BSOL Procurement Team for consideration.

8.14 Transparency Requirements

8.14.1 The Trusts must comply with the transparency requirements throughout the PA 2023, including the publication of notices on the Central Digital Platform. A summary of notice publication requirements is set out below.

Ref.	Transparency Notices	Requirement
<i>Procurement Preparation Stage</i>		
UK1	Pipeline notice	Section 93 Mandatory where total spend of £100m is anticipated in the coming financial year for relevant contracts.
UK2	Preliminary market engagement notice	Section 17 Mandatory where engagement is anticipated or has taken place (unless there is an explanation in tender notice why it has not been published).

UK3	Planned procurement notice	Section 15 Optional and best practice. A qualifying planned procurement notice can reduce tender timescales.
<i>Tender and Award</i>		
UK4	Tender notice	Section 21 and section 87(1) Mandatory for a competitive procedure (including where procuring a regulated below-threshold contract unless the Trusts advertise only for the purpose of inviting tenders from particular or pre-selected suppliers).
UK5	Transparency notice	Section 44 Mandatory for a direct award.
UK6	Contract award notice	Section 50 Mandatory unless the contract is (i) a defence and security contract awarded under a defence and security framework or (ii) a user choice contract awarded under section 41.
UK7	Contract details notice	Section 53 and section 87(3) Mandatory (including for regulated below-threshold contracts above a certain value) unless the contract relates to private utilities or is a user choice contract awarded under section 41.
	Publication of copy of contract	Section 53(3) Mandatory for contracts with an estimated value of more than £5m.
UK12	Procurement termination notice	Section 55 Mandatory unless the contract relates to private utilities.
UK13-16	Dynamic market notices	Section 39 Mandatory where establishing a dynamic market.
<i>Contract Management</i>		
UK8	Contract payment notice	Section 70 Mandatory for payments in excess of £30,000 made under a public contract unless the contract: (i) is a utility contract awarded by a private utility, (ii) is a concession contract, (iii) is awarded by a school or (iv) is awarded by a transferred Northern Ireland authority or as part of a procurement under a transferred Northern Ireland procurement arrangement.
UK9	Contract performance notice	Section 71

		Mandatory where an authority has set key performance indicators in accordance with section 52(1) unless the contract relates to private utilities.
UK10	Contract change notice	Section 75 Mandatory except for modifications to defence and security, private utility or light touch regime contracts.
	Publication of copy of modification	Section 77 Mandatory where (i) a contract change notice is required and (ii) the contract is worth (before or after the modification) more than £5m.
UK11	Contract termination notice	Section 80 Mandatory unless the contract (i) relates to private utilities or (ii) is a user choice contract awarded by direct award under section 41.
UK17	Payments compliance notice	Section 69 Mandatory unless the contract (i) relates to a transferred Northern Ireland authority, (ii) relates to private utilities, (iii) is a concession contract or (iv) relates to a public contract awarded by a school.

9 Procurement Review Unit

- 9.1 The Procurement Review Unit (PRU) will be a part of the Cabinet Office and will work on addressing systemic or institutional breaches of the procurement regulations.

10 Public Contracts Regulations 2015

- 10.1 This policy concentrates on the steps most likely to arise in the medium-term following implementation of the Procurement Act 2023. Other situations should be discussed with the BSOL Procurement Team before any steps are taken.

10.2 Thresholds

- 10.2.1 The Trusts must comply with the requirements in Part 2 of the PCR 2015 where the estimated contract value, including VAT, is equal to or greater than the thresholds specified in regulation 5 of the PCR 2015. Those thresholds are currently:
- 10.2.1.1 £5,372,609 for works contracts;
 - 10.2.1.2 £139,688 for supply and service contracts; and
 - 10.2.1.3 £663,540 for social and other services listed in Schedule 3 of the PCR 2015 (Light Touch Regime).
- 10.2.2 These thresholds are updated from time to time. If they have been updated since this policy was issued, you should discuss this with BSOL's Procurement Team.

10.3 Modifications

- 10.3.1 The Trusts may only modify contracts originally awarded prior to 24 February 2025 under the PCR 2015 which are above the relevant threshold without conducting a new procurement procedure in the circumstances described in regulation 72 of the PCR 2015. In certain circumstances specified in regulation 72(3) of the PCR 2015, the Trusts will need to publish notice of the modification on the Central Digital Platform.

10.4 Awarding Contracts under Frameworks

- 10.4.1 When procuring goods or services, the Trusts should consider whether it is appropriate to award a contract under a suitable framework agreement rather than conducting a procurement process.
- 10.4.2 If the Trusts wish to award a contract based on a framework agreement which was awarded before 24 February 2025 under the PCR 2015, they must do so in compliance with regulation 33 of the PCR 2015 and the terms of the framework. The resultant Call off contract will be managed under the PCR 2015 until its expiry or termination.

11 Equality and Diversity

- 11.1 In line with the Equality Act 2010 and the Human Rights Commission “Buying Better Outcomes”, each Trust has a Public Sector Equality Duty (PSED) to promote equality and diversity in the production of specifications in a proportionate way; the evaluation of tenders; and contractor performance management.
- 11.2 The Trust will consider equality issues upfront before the procurement process starts. This will help identify the specific needs of different potential users and allow them to be appropriately reflected in the process. Properly done, this will help achieve better outcomes, ensure equality of treatment and achieve value for money, while helping to meet corporate objectives.
- 11.3 The aim is to ensure that suppliers work to eliminate the potential for unlawful practices such as unfair discrimination to occur in relation to their employment processes and through the provision of goods, services and works to the Trust. Specifications and/or conditions of contract used by the Trust will make clear the contractors’ obligations.
- 11.4 As the PSED is non-delegable in essence, the duty will always remain the responsibility of the Trust meaning that as part of the procurement process, the Trust will ask suppliers to take certain steps (such as monitoring service users), in order to meet their continuing legal obligation to comply with the PSED.

12 Ethical Conduct

- 12.1 All members of staff must comply with all relevant legislation, policies, rules and codes and observe the highest standards of ethical behaviour including the provisions of the Bribery Act 2010 and the Trust’s individual policy on how staff should conduct themselves. Additionally, the BSOL Procurement Team staff are expected to abide by the Chartered Institute of Procurement and Supply Code of Conduct.

13 Requests to Purchase Goods and/or Services

- 13.1 All requests to purchase works, goods and/or services shall be made through the BSOL Procurement Team in the form of an internal electronic catalogue management requisition via the Trust's purchasing systems.

14 Responsibilities and Authority

- 14.1 All requests to purchase goods, services and works must be appropriately authorised in accordance with the Trust's Scheme of Delegation.
- 14.2 Irrespective of the form or value of a contract, no Trust member of staff is entitled to authorise it with his or her signature without written delegated authority as set out in Trust's Scheme of Delegation. Any member of Trust staff making contractual commitments without having a prior written delegation to do so may face disciplinary action (which could include dismissal) and can be held personally liable for the commitment made.
- 14.3 On no account must staff give assurances to potential suppliers, verbal or otherwise, that contracts will be placed with them (except by communicating a formal award decision).
- 14.4 In order to maintain an effective separation of duties, staff will not be empowered to raise requisitions, authorise requisitions AND receipt goods, services or works. Only two from these three activities will be allowed.

15 NHS England Spending Controls

- 15.1 Advice from the BSOL Procurement Team must be sought in relation to contracts which fall within the spending control processes summarised below:

15.2 Consultancy spending approval process:

- 15.2.1 Consultancy spending is subject to the NHS England "Consultancy spending approval process". Consultancy contracts over £50,001 FLCV require prior approval by NHS England (the £50,001 FLCV threshold includes irrecoverable VAT and other costs e.g. expenses). Foundation Trusts are required to submit a business case to NHS England for approval; these can be submitted either after the conclusion of a procurement process or in advance of procurement.
- 15.2.2 For the purposes of this approval process, 'consultancy' is defined as in the 'NHS Manual for Accounts' (strategy; finance; organisational and change management; IT; property and construction: procurement: legal services; marketing and communications: human resources, training and education; programme and project management; technical).
- 15.2.3 Internal and external audit are not included within the approval process.
- 15.2.4 Foundation Trusts are also required to secure advance approval before extending or varying existing contracts or incurring additional expenditure to which they are not already committed, where the total value of the contract (including the proposed extension) is or exceeds £50,001 FLCV. The business case for the extension value must be submitted to NHS England prior to the contract being extended.

15.3 Agency rules:

- 15.3.1 Agency spend is subject to the NHS England's "Agency Rules". The rules include the need to:

- 15.3.1.1 Spend Controls apply to all commercial activity with a value of £20m or more, excluding VAT. Spend Controls will also be applied to all Goods and Services spend.
- 15.3.1.2 Comply with a ceiling for Trust total agency expenditure (as a proportion of the Trust's total staffing bill)
- 15.3.1.3 Procure all agency staff at or below price caps set by NHS England
- 15.3.1.4 Use approved framework agreements to procure all agency staff
- 15.3.2 The agency rules apply to all staff groups covered by national pay scales other than very senior managers (above band 9). The price caps apply when:
 - 15.3.2.1 The agency fills a shift directly;
 - 15.3.2.2 An agency finds a worker to fill a shift , but the Trust pays the worker directly for that shift and pays the agency a finders' fee (all of this expenditure including payment to the worker, fees and on-costs must be classified as agency expenditure); and
 - 15.3.2.3 Workers are paid through a limited/personal service company or are engaged via a third party limited liability partnership.
- 15.3.3 Price caps are the maximum total amount of money, exclusive of VAT, that a Trust can pay per hour for an agency worker. These include all related costs (e.g. holiday pay for the worker, employer National Insurance, employer pension contributions, administration fee/agency charge and all expenses such as travel and accommodation.
- 15.3.4 The price caps do not apply to:
 - 15.3.4.1 Substantive/permanent staff
 - 15.3.4.2 Bank staff (both in-house banks and outsourced banks)
 - 15.3.4.3 Staff employed by the Trust on a fixed term contract

16 Contracts

16.1 Terms and Conditions of Contract

- 16.1.1 All Trusts will use the same NHS Terms and Conditions for general Goods and Services, unless specific IT Terms and Conditions or a Managed Services Company's Terms and Conditions are agreed and used by BSOL. On no account must a contract be entered into on the basis of any other Terms and Conditions (which are not likely to be to the Trusts' advantage) without consulting with the BSOL Procurement Team who will obtain legal advice if judged necessary.
- 16.1.2 Where appropriate, contracts shall be in or embody the same material terms and conditions of contract as was the basis on which tenders or quotations were invited.
- 16.1.3 When awarding contracts under the PSR or PA 2023, the Trusts must ensure that they contain the relevant termination provisions.

16.2 Determination or Termination of Contracts for Failure To Deliver Goods Or Materials

- 16.2.1 There shall be inserted in every written contract for the supply of goods or materials a clause to secure a contractor's failure to deliver

the goods or materials, or any portion thereof, within the time or times specified in the contract, failure of which may result in the Trust's decision to, without prejudice, terminate the contract either wholly or to the extent of such default, and purchase other goods, or materials of similar description to make good a) such default, or b) in the event of the contract being wholly terminated, the goods or materials remaining to be delivered.

- 16.2.2 The clause shall further secure that the amount by which the cost of purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials shall be recoverable from the contractor.

16.3 Utilisation of Existing Contractual Arrangements

- 16.3.1 As an NHS body, the Trusts can access contracts for goods, services and works already let by national/regional authorities to achieve optimum quality and VFM for the NHS. These include:

16.3.1.1 Regional Collaborative Hub Contracts such as NOE CPC or HTE;

16.3.1.2 National Contract/Framework Arrangements, such as CCS or SCCL;

16.3.1.3 Shelford Group commercial arrangements;

16.3.1.4 National Pharmacy Frameworks such as the Commercial Medicines Unit (CMU) and those let by any other appropriate regional hubs; and

16.3.1.5 Any other collaborative framework agreements let by other NHS providers and available for the Trusts' use.

- 16.3.2 Utilising these types of arrangements needs to be checked to ensure the Trust meets the public sector equality duty (PSED) obligations; In particular, whether the use of particular frameworks or the introduction of category management have any unintended negative equality consequences.

- 16.3.3 Where more than one existing contractual arrangement is available, all options will be evaluated and the choice made on the basis of best VFM.

17 **Conflicts of Interest**

- 17.1 When running a procurement process, the Trusts must comply with their obligations under the relevant procurement legislation. Those obligations include sections 81 – 83 of the PA 2023 and regulation 21 of the PSR.

17.2 Declarations of Interest

- 17.2.1 It is Trust policy that all Trust staff (including agency/temporary staff) must declare and record any personal interest that may influence, or be seen by others to influence, their impartiality in arriving at a purchasing decision.

- 17.2.2 Those who have business or personal relationships with, or friends/relatives employed by, outside organisations bidding (or who may bid) for Trust contracts must inform their Line Manager and the Procurement Department at the outset of the procurement. Staff appointed to the project team for each individual procurement exercise will be required to sign a no conflict-of-interest declaration at

the outset of the procurement. This will be reconfirmed electronically in the AWARD system prior to distribution of the tenders.

17.3 Personal Gain and Gifts

- 17.3.1 If the contractor has offered (or given/agreed to give), any person any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do (or for having done or forborne to do) any action in relation to the obtaining or execution of the contract or any other contract with the Trust, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Trust, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Trust the contractor or any person employed by him/her or acting on his/her behalf shall have committed an offence under the Bribery Act (2010) and other appropriate legislation.
- 17.3.2 The confidentiality of information received in the course of employment or whilst carrying out official duties must be respected and never used for personal gain.
- 17.3.3 All staff must declare all gifts, hospitality or other inducements received by or offered to them by, or on behalf of any manufacturers/distributors; vendors of pharmaceutical goods and services, medical devices or any other consumables; and equipment of a type which could be used in the delivery of the Trust services.
- 17.3.4 In particular, staff involved in procurement activity with existing suppliers and contractors, or in contact with bidding (existing or potential) suppliers and contractors, or any staff who may be perceived to be in a position of influencing purchasing decisions, may not solicit or accept gifts, hospitality, sponsorship or any other benefits which may reasonably be regarded as compromising the Trust's procurement principles or the professional standards of the kind set out in the Chartered Institute for Procurement and Supply's Code of Conduct and Corporate Code of Ethics.
- 17.3.5 Under no circumstances will staff accept gifts of cash or cash equivalents (vouchers or tokens), regardless of their value.
- 17.3.6 Gifts other than cash which are not pharmaceutical goods, medical devices, consumables or equipment of a type which are, or could be used in the delivery of the Trust's services and have an individual value of £25 or less (or an aggregate value of £50 or less over a rolling period of 12 months) may be accepted, subject to the Trust's Policy that relates to Hospitality, Gifts and Sponsorship. Records of any other gifts offered, whether or not they were accepted, must be kept.
- 17.3.7 It is a disciplinary matter for Trust staff to solicit, propose, agree to receive or accept any gifts, hospitality or sponsorship in return for:
- 17.3.7.1 Doing or not doing something in relation to their duties on behalf of the Trust; or
 - 17.3.7.2 Showing or not showing any favour in relation to such duties and responsibilities to any person or organisation
- 17.3.8 All Trust's should ensure that staff must adhere to the individual Trust policy that relates to Hospitality, Gifts and Sponsorship Policy.

18 Economic, social and environmental implications

- 18.1 The Public Services (Social Value) Act 2012 requires each Trust to have regard to economic, social and environmental implications of the tendering exercise within the local area. It will cover, looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award a contract.
- 18.2 Although the Act only applies to certain public services, such as contracts and framework agreements to which the public procurement rules apply, the Trust intends, as a matter of good practice, to demonstrate how what is proposed to be procured might improve social well-being, in order to maximise value for money. The considered application of the provisions of this Act will provide the Trust with the means to broaden the evaluation criteria to include impact on the local economy.
- 18.3 The Trust may consider ensuring that any social requirements are mentioned in the advertisement for any competitive procurement. Wherever it is possible and does not contradict or contravene the Trust's procurement principles, or the provisions allowable under the Public Service (Social Value Act 2012), the Trust will work to develop and support a sustainable local health economy.

19 Duties

19.1 Chief Financial Officer (CFO)

- 19.1.1 The CFO has lead director responsibility to ensure good procurement practice throughout the Trust and that processes and procedures are in place for all Procurement related areas. The CFO is also responsible for:
- 19.1.2 Ensuring adequate resources for the Procurement Department are in place to implement this policy;
- 19.1.3 Monitoring the suite of Procurement related documents ensuring they are kept up to date for use or inspection by audit; and
- 19.1.4 Ensuring that the Trust buys goods, works and services using competitive tendering unless there are convincing reasons to the contrary and the Trust complies with the Regulatory and Legal Framework.

19.2 Chief Operating Officer (COO)

- 19.2.1 The COO is responsible for monitoring the progression and performance of the Procurement Department in meeting Cost Improvement Programme (CIP) targets. This is monitored via submissions to the appropriate meeting.

19.3 Managing Director of Procurement (MDoP)

- 19.3.1 The MDoP reports to the CFOs and is responsible for:
 - 19.3.1.1 The Trust's procurement policy for goods, service and works including supply chain engagement and stock management;
 - 19.3.1.2 Implementing and developing procurement best practice across the Trust;
 - 19.3.1.3 The activities, management and performance of the Procurement Department;

- 19.3.1.4 Providing a professional procurement overview across the whole of the Trust;
- 19.3.1.5 Supporting and monitoring adherence to this policy at a strategic level;
- 19.3.1.6 Ensuring procedures and associated documents remain up to date with the Legal and Regulatory Framework; and
- 19.3.1.7 Obtaining legal advice where appropriate, in consultation with the Managing Director of Procurement.

19.4 Chair of the Clinical Product Evaluation Group

- 19.4.1 The Chair of the Group will be responsible for the oversight of all product rationalisation and standardisation projects, including the identification of alternative products for all product safety alerts and recalls.
- 19.4.2 The purpose of the Group is to:
 - 19.4.2.1 support and drive the existing good practice of clinical engagement in procurement
 - 19.4.2.2 publicise the work of the group and seek opportunities to engage the wider clinical workforce in the challenge
 - 19.4.2.3 work collaboratively with all the ICS partners to support clinical engagement across their key priorities

19.5 BSOL Procurement Team

- 19.5.1 BSOL Procurement Team will promote the Procurement Policy in all monthly site finance meetings and in all other meetings they regularly attend.
- 19.5.2 BSOL Procurement Team will engage with Budget Holders and end users to fully establish their needs and deliver effective solutions, working with them at an early Stage to drive down costs and improve value for money in the goods, services and works to be procured.
- 19.5.3 BSOL Procurement Team, in consultation with internal or, where relevant, external customers, are responsible for identifying markets and procurements most likely to offer best VFM and for encouraging suppliers to compete for the Trust's business.

19.6 Budget Holders

- 19.6.1 It is the responsibility of individual budget holders to ensure when making procurement-related decisions that they adhere to the Trust's SFI and Scheme of Delegation which can be accessed on each Trust's intranet.
- 19.6.2 Budget holders and end users must always ensure procurement that staff in the Procurement Department are informed and involved about a new procurement requirement from the outset. They can provide advice on many issues, such as:
 - 19.6.2.1 Engaging potential suppliers in early 'without commitment' discussions to develop the proposed procurement route;
 - 19.6.2.2 Keeping the field of potential suppliers sufficiently broad to keep options open, stimulating effective competition and avoiding potential claims of unfairness;

- 19.6.2.3 Ensuring aspects such as the potential impact of the Public Procurement Rules are properly considered;
- 19.6.2.4 Determining the key areas of commercial risk and devising strategies for their mitigation and management; and
- 19.6.2.5 Identifying the contracting strategies and the alternative pricing options available for the Trust
- 19.6.3 Advice from the Procurement Department can be sought prior to any non-contract procurement not linked to routine stock replenishment. Specialist advice on quotation/tender and contractual issues must be obtained prior to any procurement with a value of £12,000 or more, including VAT.
- 19.7 Authorised Staff with Access to Procurement Systems
 - 19.7.1 All staff that can access a procurement related system must ensure that they adhere to the Trust's SFI and Scheme of Delegation.
 - 19.7.2 If applicable to new starters who have a procurement related role they will receive orientation to this policy and its associated procedures by their line manager during their local/ departmental induction.
- 19.8 All Staff
 - 19.8.1 It is an individual responsibility for all Trust staff to be familiar with and adhere to this Policy and its associated procedures. Budget Management Training is available for all staff involved in procurement decisions.

20 Implementation and Monitoring

- 20.1 This policy will be available on the Trust's intranet site and the procurement website and disseminated through the Trust's management structure. The policy will also be publicised to all staff through the Trust's, weekly electronic news round up, "In the Loop".
- 20.2 Effective and relevant procurement training is a key element in the promotion of best practice and high standards in procurement activities across the Trust. The procurement department promote and support the delivery of relevant developmental training and procurement qualifications.
- 20.3 The BSOL Procurement Team will also provide a formal training plan for all staff involved in the procurement process with particular emphasis on the Chartered Institute of Procurement and Supply standards and qualifications. In addition, all Procurement Department staff will have an agreed Personal/Professional Development Plan.
- 20.4 The Deputy Director of Procurement will provide implementation oversight, as well as advice and support to the Procurement Team regarding any arising issues or concerns.
- 20.5 BSOL Procurement Team will provide training to Heads of Departments, Trust Managers and Budget holders to ensure understanding and compliance to the policy.
- 20.6 The Procurement Department will provide, as and when required, training to relevant Trust staff in the use of the Trust's e-commerce systems.
- 20.7 The compliance and effectiveness of this policy will be monitored by the Trust.