

Procurement Policy

2014-2016

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1. PRINCIPLES

1.1 Aim of Policy

- 1.1.1 Clinical Commissioning Groups (CCGs) are statutorily constituted to procure healthcare services for the population they serve and are constitutionally obliged to improve quality of care and ensure the efficient use of resources.
- 1.1.2 The term “procurement” covers the tools and the processes available to CCGs to commission goods and services. The procurement process can encourage competition, which in turn can lead to improvements in quality of care.
- 1.1.3 However, it is important to note that in a recent letter to all NHS commissioners, NHS England has confirmed: *‘The key requirement for commissioners is to determine how to improve services for patients including how to use integrated care, competition and choice. Commissioners should adopt transparent decision making processes which use competition as a tool for improving quality, rather than as an end in itself. NHS England and Monitor will support commissioners who adopt this approach to competition’.* (Gateway Ref: 00542)
- 1.1.4 The main aim of this policy is to provide guidance and an overview of the procurement process which the Leeds West Clinical Commissioning Group (CCG) will typically follow to procure goods and services. It also serves to address the CCG’s procurement process on three levels:
- The CCG’s organisational ethos in respect of procurement decisions
 - Adherence to the CCG’s statutory and legal obligations
 - Set out the procurement principles that will be underpinning the CCG’s Commissioning decisions
- 1.1.5 Key reference points for this document include:
- The NHS Leeds West Clinical Commissioning Group’s (CCG’s) Constitution
 - The CCG’s Detailed Financial Procedures
 - The CCG’s Declaration of Interests and Potential Conflicts of Interests Policy
 - The CCG’s Single Integrated Plan and Commissioning Strategy
 - NHS Procurement Guidance and European Union Directives
 - Patient Choice and Competition Regulations
 - Leeds City Wide 5 Year Strategy 2014-2018
- 1.1.6 The relevant Legislation in relation to NHS procurement includes:
- Section 75 of the Health and Social Care Act 2012, and its associated regulations, place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour and promote the right of patients to make choices about their healthcare.
 - Public Contracts Regulations 2006 which implement the EU procurement directives within UK Law.

- Section 11 of the Health and Social Care Act 2001 requires commissioners of healthcare services to ensure patients and their representatives are involved in and are consulted on planning of healthcare services
- Section 242 of the National Health Service Act 2006 provides that commissioners of healthcare services have, in relation to health services for which they are responsible, a legal duty to consult patients and the public – directly or through representatives – on service planning, the development and consideration of services changes and decisions that affect service operation.

1.2 Scope of the Policy

1.2.1 This policy applies to all Leeds West CCG procurements (clinical and non-clinical). However, it is particularly relevant to the procurement of goods and services that support the delivery of healthcare and certain sections relate only to procurement of health and social services.

1.2.2 This policy must be followed by all Leeds West CCG employees including staff on temporary or honorary contracts, representatives acting on behalf of Leeds West CCG including staff from member practices, and any external organisations contractually authorised to acting on behalf of the CCG including other CCGs and the West and South Yorkshire and Bassetlaw Commissioning Support Unit (WSYBCSU).

1.3 Accountabilities & Responsibilities

1.3.1 **Lead Responsibility:** Overall responsibility for procurement within the CCG rests within the Corporate Finance Department. However individual managers and senior members of the CCG will be responsible for recognising when a commissioning decision may have potential procurement implications and for seeking appropriate procurement support.

1.3.2 **Procurement support:** Where it is required and considered appropriate procurement support will be provided by the West and South Yorkshire and Bassetlaw Commissioning Support Unit (WSYBCSU).

1.3.2.1 In the case of collaborative or partnership projects where the CCG is not the sole or lead commissioner, procurement support arrangements will be agreed in consultation with the Lead Commissioner or Commissioning Partners on a case by case basis. This may involve support being provided by another CCG, Leeds City Council, or an independent procurement support service. Whenever external procurement support is provided by any organisation, the CCG will have systems in place to assure itself that the supporting organisation's business processes are robust and enable the CCG to meet its duties in relation to procurement.

1.3.3 **Authority:** The CCG will remain directly responsible for:

- Approving the procurement route;
- Signing off specifications and evaluation criteria;

- Following a pre-qualification process, signing off decisions on which providers are taken through to the Invitation to Tender (ITT) stage;
- Making final decisions on the selection of the preferred provider.
- Arrangements for delegation of authority to officers are set out in the CCG's Scheme of Delegation, in the event of any discrepancy between this Procurement Policy and the Scheme of Delegation, the latter documents will take precedence.

1.4 NHS Leeds West CCG's Constitution

- 1.4.1 Our aim is to commission high quality services in an affordable and sustainable system.
- 1.4.2 The CCG's constitution sets out its roles and responsibilities for commissioning care for the population of West Leeds. It also describes the governing principles, rules and procedures that the CCG will establish to ensure probity and accountability in the day to day running of the clinical commissioning group; to ensure that decisions are taken in an open and transparent way and that the interests of patients and the public remain central to our four priority aims:
- 1.4.3 More specifically, the CCG's constitutionally declared values at its inception include adherence to the principles of:
- Good governance standards for Public Services
 - Nolan Principles
 - The seven key principles of the NHS Constitution
 - The Equality Act 2010
 - Standards for Members of NHS Boards and Governing Bodies in England
 - Accountability
- 1.4.4 The CCG's procurement decisions must therefore:
- Represent value for money
 - Be transparent and non-discriminatory, and follow sound governance processes
 - Comply with all relevant legislation
 - Comply with the CCG's own procedures
 - Appropriately manage Potential conflicts of interest protect the integrity of the CCG's contract award decision making processes and the wider NHS commissioning system.

1.5 NHS Leeds West CCG Responsibilities

- 1.5.1 The CCG's Detailed Financial Policies are issued in accordance with the Directions issued by the Secretary of State for Health under the provisions of the NHS Act 2006 as amended by the Health and Social Care Act 2012, with responsibilities set out under that and subsequent secondary legislation for the regulation of the conduct of CCG in relation to all financial matters.

1.5.2 These Detailed Financial Policies describe the financial responsibilities, policies and procedures adopted by the CCG. They are designed to ensure that the CCG's financial transactions are carried out in accordance with the law and Government policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They must be applied in the context of the CCG's latest Schemes of Delegation.

1.6 Governing Body Responsibilities

1.6.1 The Governing Body has the ultimate responsibility for ensuring that the CCG meets its' statutory requirements when procuring (healthcare) services.

1.6.2 The Governing Body must be transparent when making decisions to procure services and be the authorising body for awarding contract once a formal tender process has been completed.

1.6.3 When considering options for procurement the Governing Body will consider the guidelines set out by Monitor as the appointed regulator of healthcare procurement and apply the Monitor Key tests – see appendix ????

1.7 Staff, Public and Patient Engagement

1.7.1 The CCG is committed to engaging relevant stakeholders in all aspects of procurement. The NHS Constitution pledges that staff should be engaged in changes that affect them.

1.7.2 The CCG recognises that the engagement of clinicians, patients and public in designing services results in better services. Our business processes require evidence of engagement for business cases to be approved and as a result, any procurement of services will have been informed by engagement at the design stage.

1.8 Collaboration

1.8.1 As one of three CCGs operating in the Leeds Health Economy, Leeds West CCG is committed to operating in a sustainable environment whereby all opportunities for efficiency and economies of scale are considered and where applicable, applied. This includes sharing of operational resources, or commitment to specific joint projects and/or contracts across Leeds and the wider NHS footprint, as long as participation serves the best interests of the Leeds West population.

1.9 Commissioning and Decommissioning Decisions

1.9.1 The CCG will ensure that the way we approach the commissioning and decommissioning of services will be fair, open and transparent.

1.9.2 Proposals to commission or decommission a service will meet the Secretary of State's four key tests for service change:

- Support from GP commissioners

- Strong engagement, including local authorities, public and patients
- A clear clinical evidence base underpinning proposals
- The need to develop and support patient choice

1.9.3 Where the CCG is seeking to decommission a service, there must be clear and objective reasons for the decommissioning of that service. These are likely to be based on one or more of:

- Failure to remedy poor performance
- Evidence that the service is not cost-effective
- Evidence that the service is not clinically effective – i.e. patient outcomes cannot be shown
- Insufficient need for the service

1.9.4 Commissioning and decommissioning proposals will be clearly in line with the CCG's business aims and objectives, as set out in the CCG's annual commissioning intentions.

1.9.5 Patient and service users' views will be taken into consideration in any decision to commission or decommission a service, with formal public consultation when required.

1.9.6 Proposals will be led by clinicians and will be based upon clear and strong evidence of clinical and cost effectiveness.

1.9.7 There will be no negative impact on the quality of care patients receive or on equality of care provision when services are decommissioned.

1.9.8 Proposals will be backed by a robust business case that describes the benefits of commissioning / decommissioning and demonstrates how the benefits will be achieved.

1.9.9 Decommissioning decisions will be consistent with the commitments in the Compact with VCF sector providers and with partnership principles agreed with NHS Foundation Trusts and the Local Authority.

1.9.10 The CCG Governing Body will ultimately take the decision with regard to the decommissioning of any service.

2 COMPLIANCE WITH REGULATIONS AND POLICIES

2.1 Statutory Framework

2.1.1 Leeds West CCG was set up under the Health and Social Care Act

(2012). The Health and Social Care Act (2012) empowers' CCGs to commission healthcare services for local populations. The duties of CCGs are set out in section 3 of the National Health Services Act 2006 with updated amendments and regulations in section 13 of the Health and Social Care Act 2012.

2.2 Procurement Rules and EU Principles

- 2.2.1 Leeds West CCG will adhere to relevant EU/UK law and procurement guidance from the Department of Health.
- 2.2.2 The European Union Treaty and Directives on procurement require competition as a mechanism by which contracting authorities ensure equality of treatment, transparency, proportionality and non-discrimination.
- 2.2.3 EU Law governing the procurement of services is listed under EU Directive 2004/18/EC Part B which includes 'Category 25 - Health and Social Services'. Under this directive services are either classed as Part A services or Part B services. Health and Social Care services are classed as part B services. Part B services are subject to less stringent procedures, competition and timescale requirements in comparison to part A services.
- 2.2.4 Despite part B services not being subject to as stringent rules as part B services Leeds West CCG will adhere to general effective procurement practice as set out by the Department of Health in 'Procurement guide for commissioners of NHS funded Services'. This will ensure principles of transparency, proportionality, equality of treatment and non-discrimination are practiced when procuring services.
- 2.2.5 Leeds West CCG will show transparency through:
 - 2.2.5.1 Stating short to medium term commissioning intentions on the Leeds West CCG website and NHS Supply2Health website. Information will be given as to which type of tender is intended to be commenced.
 - 2.2.5.2 Advertising contracts with a lifetime value of over £111,676 (January 2014) with NHS Supply2Health and OJEU if contracts are of a high value or have cross-border interest.
 - 2.2.5.3 Details of all awards of contracts with a lifetime total value of over £111,676 will be registered with NHS Supply2Health and OJEU for contracts over £172,514 excluding VAT.
 - 2.2.5.4 A standstill period will be held between notifying the award of a contract and execution of a contract. Feedback will be given to unsuccessful bidders on the outcome of their bid.
 - 2.2.5.5 An auditable documentation trail will be maintained regarding the decision to/not to tender services.
- 2.2.6 Proportionality will be adhered to by:

- 2.2.6.1 Appropriate levels of resources being applied to the procurement process depending on the value, complexity and risk of the service contracted.
- 2.2.6.2 The procurement process will ensure that quality standards and patient safety will be maintained through the process.
- 2.2.7 Equality of treatment will be ensured through:
 - 2.2.7.1 Providing the same information to all potential providers at the same time
 - 2.2.7.2 Specifying rules of engagement and evaluation criteria prior to provider involvement and applying these rules and criteria in the same manner.
- 2.2.8 Leeds West CCG will show no discrimination in favour or against any organisation. Decisions as to whether to award a contract will be based on providers meeting pre-stated objective evaluation criteria.

2.3 Procurement approach for non-clinical supply and service contracts

- 2.3.1 The CCG and/or its agents will follow EU and UK public procurement rules and the CCG's Prime Financial Policies and Scheme of Delegation as appropriate.

2.4 Procurement approach for Healthcare and Social service contracts

- 2.4.1 The newly published Monitor guidance on Procurement, Patient Choice and Competition Regulations provides a broad framework for decision making which replaces the previous Department of Health Principles and Rules for Cooperation and Competition. The Regulations and the corresponding guidance are principles based and not prescriptive, recognising that, 'it is for commissioners to decide which services to procure and how best to secure them in the interest of patients (Monitor Guidance p.4).
- 2.4.2 NHS Leeds West CCG will conduct health service procurements, as one aspect of wider market management and development, according to priorities established in its strategic plans.
- 2.4.3 Decisions of whether to tender will be driven by the need to commission services from the providers who are best placed to meet the needs of our patients and population.
- 2.4.4 The decision-making process will vary depending on whether the service concerned is an existing service, or whether it is a new or significantly changed service.

2.5 Approach to market

2.5.1 Competitive Tendering

- 2.5.1.1 It is anticipated that an increasing number of services will be subject to competitive tendering in order to demonstrate the application of the principles of transparency, openness, equitability and obtaining and delivering value for money. It

is recognised that there is no single process that will definitively determine whether a competitive tender is appropriate, the CCG will ensure that the decision making process leading to the selection of a procurement route is clearly documented.

2.5.2 Non-Competitive process

2.5.2.1 Competition may be waived in circumstances such as genuine urgency, or where there is demonstrably only one provider who can provide the service for technical or special exclusive rights. In these circumstances the procedures set out within the CCG's Prime Financial Policies and Scheme of Delegation must be followed.

2.5.3 Where it is decided not to competitively tender for new services or where services are significantly changed, approval must be obtained from the LSE CCG Audit Committee following any recommendation to follow this approach. Any audit Committee decisions regarding non-competitive processes must then be ratified by the CCG Governing Body.

2.6 Choice and Competition

2.6.1 Section 75 of the Health and Social Care Act (2012) relates to requirements for procurement, patient choice and competition. This section requires commissioners when procuring health care services to:

- meet the needs of the people who use the services
- improve the quality of the services
- improve efficiency in the provision of the services.

2.6.2 The Procurement, Patient Choice and Competition Regulations give a principle based approach for procuring services to meet the needs of its patients. There is no prescriptive or preferred way to procure services however any services procured must fit within the framework of the regulations.

2.6.3 Quality of services and value for money can be improved by competition between providers. Increasing patient choice can also encourage providers to improve the quality of their service provided. Competition is therefore beneficial to the users of health care services in terms of safer care, improved outcomes and better patient experiences.

2.6.4 Regulation 3(4) requires commissioners to consider whether introducing competition and choice could be used to improve quality and efficiency. Leeds West CCG will demonstrate that they have considered whether services might be improved through increasing competition and choice when procuring services.

2.6.5 The Procurement, Patient Choice and Competition Regulations do not require commissioners to extend patient choice beyond patients' rights to choice set out in the NHS Constitution, or to promote competition by increasing the number of providers of a service in an area.

2.7 Partnership Agreements with Local Authorities

2.7.1 National Policy and local strategies both promote the increased integration of health and social care services - several mechanisms exist to support joint commissioning of services across health and social care:

2.7.2 Section 75 (S75) Partnership Agreement

- Section 75 of the NHS Act 2006 sets out a number of powers that support partnership and joint commissioning across health and social care. Key provisions of the act allow NHS Bodies and Local authorities to establish pooled budgets, and also allow for the delegation of certain statutory functions from one partner to the other through a lead commissioning arrangement.
- Section 75 powers are intended to be used where partnership arrangements are likely to lead to improvements in the delivery of NHS and Local Authority functions.
 - Joint funding arrangements – establishing pooled budgets where each partner makes defined contributions to a single fund, to be spent on jointly agreed services or projects, or to support functions delegated from one partner to the other.
 - Delegation of statutory functions – typically this will involve one organisation acting as lead commissioner on behalf of the partnership. The lead commissioner becomes responsible for carrying out the delegated functions and activities on behalf of the other partner(s) in order to achieve the specified objectives of the partnership. Although functions can be delegated, each partner remains liable for their own statutory duties.

2.7.3 Section 256 (S256) Agreements

- S256 Agreements were established through the NHS Act 2006 and subsequently updated through the Health and Social care Act 2012.
- S256 Agreements allow NHS commissioners to make payments to Local authorities towards any Local Authority expenditure which in the opinion of the CCG would have an effect on the health of individuals, or which would have an impact on, or be affected by, NHS commissioned services, or are otherwise connected with other NHS functions.
- S256 Agreements 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. However these agreements do not involve the transfer of any statutory health functions to the local authority.
- S256 agreements are not subject to formal procurement processes, as the CCG is not directly commissioning or contracting for goods or services in this instance. However S256 agreements must comply with any relevant Directions

published by the Secretary of State. The latest Directions (May 2013) set out 2 key conditions for S256 agreements:

- The CCG must be satisfied that the S256 transfer will be a more effective use of public funds than using the equivalent funding directly on health commissioned services.
- So far as practicable, the CCG must ensure that the payment is used by the recipient in such a way as will secure the most efficient and effective use of the transferred funds

2.8 Better Care Fund

- In addition to the two types partnership agreement described above, further legislation is pending to develop the underpinning for the Better Care Fund (BCF), which is a nationally mandated pooled budget across Health and social care.
- The BCF is intended to promote further integration and support the delivery of improved outcomes across health and social care.
- These transfers are being carried out in the form of S256 agreements between NHS England and Local Authorities – with additional conditions. The conditions associated with the transfer are that:
 - The funding must be used for social care services which also have a health benefit
 - Local Authorities must have the agreement of their local CCGs regarding how the funding is used and the expected outcomes to be achieved
 - Local Authorities must be able to demonstrate that the transferred funding will improve social care services, and outcomes for service users- in comparison with plans which do not include the funding transfer.
 - Revised Directions are due and will give an indication of the governance arrangements to be expected for the BCF and will be followed by the CCG.

2.9 Spot Purchasing

- 2.9.1 There may be the need to spot purchase contracts for particular individual patient needs or for urgency of placements requirements at various times. At these times, a competitive process may be waived. It will be expected that these contracts will undergo best value reviews to ensure the CCG is getting value from the contract. Value for money should be assessed by the manager with responsibility for signing off the spot purchasing agreement or individual service agreement, and then reviewed annually. Sign off of spot purchase agreements should follow the scheme of delegation for the CCG. In all cases the CCG should ensure that the provider is fit for purpose to provide the particular service.

2.10 Framework Agreements

2.10.1 The CCG is able to use other public sector organisations framework agreements if a provision has been made in the framework agreement to allow this (that is the by the holder of the framework agreement, such as the Government Procurement Service).

2.10.2 The EU rules currently state that framework agreements should be for no longer than four years in duration.

2.10.3 Where it is allowed for in the framework agreements there may be an option for running mini competitions. Here all providers on the framework who can meet requirements are invited to submit a bid, these are then evaluated and a contract awarded following the same processes as for tenders. Any contract awarded can run beyond the framework agreement period but the length of the contract extension must be reasonable.

2.11 Any Qualified Provider

2.11.1 With the AQP model, for a prescribed range of services, any provider that meets criteria for entering a market can compete for business within that market. Under AQP there are no guarantees of volume or payment, and competition is encouraged within a range of services rather than for sole provision of them.

2.11.2 The AQP model promotes choice and contestability, and sustained competition on the basis of quality rather than cost. Any service that is contracted through the AQP model does not need to be tendered, although it will be advertised if appropriate (using Supply2Health) and potential service providers will need to be qualified/accredited.

2.11.3 The CCG will have due regard at all times to the EU Treaty principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality when applying the AQP procedure.

2.11.4 An NHS standard contract will be awarded to all providers that meet:

- Minimum standards of clinical care (achieving AQP qualification/accreditation requirements);
- The price the CCG will pay;
- Relevant regulatory standards
- Agree to advertise their services on choose and book

3. RECORD KEEPING

3.1 Regulations

3.1.1 Regulation 9(1) of the Procurement, Patient Choice and Competition Regulations requires commissioners to maintain and publish a record of all the contracts that they award on the website maintained by NHS England for this purpose. This is currently <https://www.supply2health.nhs.uk/>

3.1.2 This obligation applies to the award of any contract for NHS health care services. Regulation 9(2) specifies certain information that this record must contain. This includes:

- the name of the provider to whom the contract has been awarded and the address of its registered office or principal place of business;
- a description of the services to be provided;
- the total amount to be paid under the contract, or where the total amount is not known, the amounts payable to the provider. For example, where services are remunerated on the basis of activity levels and the total level of activity is not known in advance, it may be appropriate for the commissioner to publish details of how payments are calculated under the terms of the contracts with providers;
- the dates between which the services will be provided; and
- a description of the process adopted for selecting the provider.

3.1.3 The Procurement, Patient Choice and Competition Regulations do not specify a time frame within which this information must be published. However, the CCG will aim to make this as soon as possible and before the contract is implemented, in order to be consistent with the general duty of transparency.

3.2 Record of compliance with duties relating to effectiveness, efficiency and quality and the delivery of integrated care in the 2006 Act

3.2.1 Commissioners are required to exercise their functions effectively, efficiently and economically, and with a view to securing a continuous improvement in the quality of services for the prevention, diagnosis or treatment of illness.

3.2.2 Commissioners are also required to exercise their functions with a view to securing that health services are provided in an integrated way, including with health-related services or social care services, where they consider this would:

- improve the quality of health services (including outcomes);
- reduce inequalities between persons in their ability to access those services;
or

- reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services. Regulation 3(5) of the Procurement, Patient Choice and Competition Regulations requires commissioners to maintain a record of how a contract award complies with these duties. The content and level of detail of this record will vary depending on the circumstances of the case. For example, more information is likely to be required for high value contracts than for lower value contracts. See box below

3.3 Publishing Contract Opportunities

- 3.3.1 There is no requirement in the Procurement, Patient Choice and Competition Regulations for commissioners to publish contract opportunities to potential providers of health care services.
- 3.3.2 Whether to publish a contract opportunity should be considered on an individual basis depending on the appropriateness of publishing the opportunity, e.g. publishing an opportunity may identify the most capable provider.
- 3.3.3 Where required there will be sufficient advertising to meet the principles of transparency, proportionality, non-discrimination and equality of treatment.
- 3.3.4 Where contract opportunities are published information will be provided to bidders to allow assessment of the suitability of the contract. Information will include what the service is, when contract bids must be submitted and what criteria will be used to assess the contract bid.
- 3.3.5 When making the decision whether to publish a contract a consistent process will need to be adhered to ensuring:
- 3.3.5.1 The needs of people who use the services is secured improving quality and efficiency through the services being provided in an integrated way.
- 3.3.5.2 The requirement to secure that arrangements' exist to enable providers to express an interest in providing any NHS health care services.
- 3.3.5.3 The requirement to act transparently, proportionately and not to discriminate between providers.
- 3.3.5.4 The requirement to commission services from those providers that are most capable of securing the needs of health care service users and improving the quality and efficiency of services, and that provide the best value for money in doing.
- 3.3.5.5 The requirement to consider appropriate means of improving NHS health care services, including through enabling providers to compete to provide services

3.4 Public Services Act 2012

- 3.4.1 The Public Services Act 2012 requires commissioners to consider economic, environmental and social factors for the benefit of the local community of the selected approach to procurement of a service.
- 3.4.2 Leeds West CCG will apply the Public Services Act at the pre-procurement stage as this is where the greatest benefits can be gained for social value in terms of informing the design of the service required.
- 3.4.3 The Act advocates for a value for money approach to secure both the best price and meet the social, economic and environmental needs of the local community.

3.5 Equality Act 2010

- 3.5.1 Any procurement conducted by Leeds West CCG should consider and adhere to the Equality Act (2010). This Act requires commissioners not to discriminate on any grounds against any potential provider. Potential providers will be treated in the same respect during stages of agreeing contracts and implementing contracts.

3.6 Freedom of Information Act 2000

- 3.6.1 Leeds West CCG will comply with requirements set out in the Freedom of Information Act (2000) whilst conducting procurements. As part of this information regarding individuals and organisations involved within the procurement process will be protected during all stages of the process.
- 3.6.2 On commencement of the procurement process Leeds West CCG will make potential bidders aware of the requirement for Leeds West CCG to comply with the Act.
- 3.6.3 Leeds West CCG will comply with the requirement to publish items of central government spending over £25,000 on the Leeds West CCG website <http://www.leedswestccg.nhs.uk/about-us/transparency.htm>

3.7 CCG's Financial Policies and Schemes of Delegation

- 3.7.1 Leeds West CCG's financial policies have been written in conjunction to Leeds West CCG's constitution.
- 3.7.2 The below table gives information from the Schemes of Delegation regarding the requirements and limits for the procurement of goods and services.

Type of Commitment on Behalf of the CCG	Authorised Officer
Cheque Requests and Payment of Invoices	
up to £5,000	Authorised Budget Holder Representative
up to £10,000	Budget Holder

Type of Commitment on Behalf of the CCG	Authorised Officer
up to £15,000	Executive Officer
up to £150,000	Chief Finance Officer or Chief Officer
Over £150,000	Chief Finance Officer and Chief
Tenders - Post approval of cost envelopes	
Approving of expenditure greater than a tender price up to 10% or £15,000 whichever is the higher and within budget	Relevant Executive Officer
Approving expenditure greater than a tender price by 10% or £15,000. Up to a maximum of £30,000	Chief Financial Officer
Approving expenditure greater than a tender price by £30,000	Chief Officer and Chief Finance Officer
Purchasing Goods and Services	
up to £4,999	a minimum of 2 verbal quotations must be obtained
between £5,000 and £19,999	a minimum of 3 written quotations must be obtained
between £20,000 and £29,999	a minimum of 4 written quotations must be obtained
For orders in excess of £30,000	Competitive tendering will apply
Waving of requirement to obtain quotations and tenders subject to the Detailed Financial Policies	Chief Officer or Chief Finance Officer and report to Audit Committee
Authorisation of contracts for non pay and subsequent variations	
Up to £50,000	Relevant Executive Officer
Up to £250,000	Chief Officer or Chief Finance Officer
Up to £500,000	Chairman and Chief Officer or Chief Finance Officer
Over £500,000	Governing Body

Type of Commitment on Behalf of the CCG	Authorised Officer
Capital Schemes	
Up to £5,000	Executive Director
Up to £50,000	Chief Finance Officer or Chief Officer
Engagement of Staff Not on the Establishment	Chief Finance Officer and Chief Officer
Booking of Bank or Agency Staff	Budget Holder or Authorised Budget Holder Representative
Agreements / Licences	
Preparation and signature of all tenancy agreements / licences for all staff subject to CCG Policy on accommodation for staff	Chief Finance Officer
Extensions to existing leases	Chief Finance Officer
Letting of premises to outside organisations	Chief Finance Officer and Chief Officer
Approval of rent based on professional assessment	Chief Finance Officer
Condemning and Disposal	
Items obsolete, obsolescent, redundant, irreparable or cannot be repaired cost effectively;	
- with current / estimated purchase price of less than £50 per item	Budget Holder
- with current purchase new price in excess of £50 per item	Executive Officer
- disposal of mechanical and engineering plant (subject to estimated income of less than £1,000 per sale)	Chief Finance Officer
- disposal of mechanical and engineering plant (subject to estimated income exceeding £1,000 per sale)	Chief Finance Officer and Chief Officer
Losses, Write-offs & Compensation	
Ex Gratia Payments	
a) Patients and staff for loss of personal	
Less than £99.99	Budget Holder
Between £100 and £499.99	Relevant Executive Officer
Between £500 and £999.99	Chief Finance Officer
£1,000 to £50,000	Chief Officer and Chief Finance Officer
b) Write off of Non NHS debtors	Chief Officer or Chief Finance

Type of Commitment on Behalf of the CCG	Authorised Officer
	Officer
	Reported to Audit Committee for information
Petty Cash Disbursements	
Expenditure up to £75 per item	Authorised Budget Holder Representative
Reimbursement of patients monies up to £100	Authorised Budget Holder Representative
Reimbursement of patients monies in excess of £100	Budget Manager
Petty Cash disbursements over £75 per item are only allowed in exceptional circumstances with the prior agreement of the Chief Finance Officer, designated Deputy or Senior Finance Manager – Financial and Management Accounting.	
Authorisation of Sponsorship Deals	Chief Officer and Chairman of the Executive Committee
Authorisation of Research Projects	Chief Officer & Clinical Governance Lead & Executive Committee & R&D Manager
Insurance Policies	Chief Officer or Chief Finance Officer

3.8 Tender Waivers

3.8.1 Formal tendering procedures can only be waived in accordance with the conditions set out in the CCG's Detailed Financial Policies. The CCG's Audit Committee will formally review all Tender waivers quarterly.

3.9 Contract Award

3.9.1 The decision to award a contract will be based on the contract's value for money whilst meeting the health care needs of the local community. In instances where providers are offering lower prices it is important to ensure that quality and safety standards are maintained.

3.9.2 Any contracts awarded over £100,000 will be published by Leeds West CCG on NHS Supply2Health, with contracts with a value in excess of £ 172,514 (excluding VAT) to be published in OJEU in adherence with statute. Any contracts awarded over £10,000 will be published in Contracts Finder in keeping with rules from the Cabinet Office rules for public procurement.

4 GENERAL

4.1 Conflicts of Interest (GPs)

4.1.1 Managing potential conflicts of interest appropriately is needed to protect the integrity and ensure public confidence in the wider NHS commissioning system and to protect CCGs and GP practices from any perceptions of wrong-doing.

4.1.2 In instances where conflicts of interest arise Leeds West CCG will manage the conflict in accordance with the Leeds West CCG Constitution.

4.1.3 This section describes additional safeguards that Leeds West CCG will put in place when commissioning services that could potentially be provided by GP practices.

4.1.4 The template included at Appendix A will be completed as part of the planning process for all services that may potentially be provided by GP practices (either as a successful bidder in a competitive procurement process, as one of several qualified providers through an AQP approach, or via a non-competitive process from GP practices). Templates should be completed by the commissioning team responsible for proposing the service or service change/development. The completed templates will be used to provide assurance to the CCG Governing Body that proposed services meet local needs and priorities and that robust processes have been followed in selecting the appropriate procurement route and in addressing potential conflicts. It is intended that completed templates will be made publicly available via the CCG website. Where appropriate, commissioning decisions relating to enhanced services from GP practices may also be referred to the local overview and scrutiny committee for consideration.

4.1.5 Where any practice representative on a decision-making body has a material interest in a procurement decision, those practice representatives will be excluded from the decision-making process (but not discussion about the proposed decision). This includes where all practice representatives have a material interest, for example where the CCG is considering commissioning services on a single tender basis from all GP practices in the area. Rules relating to quoracy in these and other circumstances are set out in the CCG constitution.

4.1.6 Leeds West CCG requires anyone who is supporting procurement as a commissioner, commissioning support unit or other commissioning support units' member to sign a declaration in respect to potential conflicts of interests.

4.2 Framework Agreements

4.2.1 When relevant Leeds West CCG can use framework agreements from pre-approved providers, this is where standard terms on contracts are available for both purchaser and provider.

4.2.2 Various framework agreements are available through the Government Procurement Service, NHS Shared Business Service, NHS supply Chain, Connecting4Health and the Department of Health.

4.2.3 Where the framework allows mini-competitions can be run allowing all providers who can each provide a service to submit a bid, which will then be evaluated with a decision made as to whether to award a contract.

4.3 Third Sector Providers

4.3.1 Leeds West CCG will support the Governments attempts to increase activity in third sector providers and Small and Medium Enterprises. Leeds West CCG will ensure that no organisation is discriminated against by showing transparency and not requesting disproportionately demanding information therefore reducing barriers to entry.

4.4 Pilot Projects

4.4.1 Pilot projects may be commenced in circumstances where clinical outcomes are not known or when outputs can't be predicted. Pilot projects Leeds West CCG is involved in will comply with all relevant procurement rules.

4.5 The CCG's Sustainability Agenda

4.5.1 Leeds West CCG recognises it has a role in furthering sustainable development, through its procurement strategy. A key primary function of Leeds West CCGs strategic objectives is to improve the quality and safety of health services in a sustainable way as set out in the Constitution.

4.5.2 Wherever it is possible, and does not contradict or contravene the CCG's procurement principles or applicable legislation and guidance, Leeds west CCG will use procurement to deliver long term social, economic and environmental benefits to the local and wider population.

4.6 Use of Information Technology

4.6.1 Wherever possible the CCG will ensure that providers of procurement support are able to offer appropriate information technology system to administer the procurement process – such as e-procurement and e-evaluation systems. These are intended to assist in streamlining CCG procurement processes whilst at the same time providing a robust audit trail.

4.7 Transfer of Undertakings and Protection of Employment Regulations (TUPE)

4.7.1 These regulations arose as a consequence of the 1977 EU Acquired Rights Directive and were updated in 2006. They apply when there are transfers of staff from one legal entity to another as a consequence of a change in employer. This is a complex area of law which is continually evolving.

4.7.2 Commissioners need to be aware of these and the need to engage HR support and possibly legal advice if there is likely to be a TUPE issue. Additionally NHS Bodies must follow Government guidance contained within the “Cabinet Office Statement of Practice 2000/72 and associated Code of Practice 2004 when transferring staff to the Private Sector” also known as “COSOP”.

4.7.3 It is the position of the CCG to advise potential bidders that whilst not categorically stating TUPE will apply it is recommended that they assume that TUPE will apply when preparing their bids, and ensure that adequate time is built into procurement timelines where it is anticipated that TUPE may apply.

4.8 Equality Impact Assessment

4.8.1 All public bodies have statutory duties under the Equality Act 2010. The CCG aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage against others.

4.9 Training Needs Analysis

4.9.1 All CCG staff and others working with the CCG will need to be aware of this policy and its implications. It is not intended that staff generally will develop procurement expertise, but they will need to know when and how to seek further support. All commissioning staff throughout the CCG should sufficient knowledge about procurement to know when to seek help when they encounter related issues; they must also be able to give clear and consistent messages to providers and potential providers about the CCG’s procurement intentions in relation to individual service developments.

4.10 Monitoring Compliance with this Strategy / Procedure

4.10.1 This Policy will be reviewed every three years.

4.10.2 In addition it will be kept under informal review by the author, to ensure that changes can be made and approved rapidly following any further developments or the publication of new or updated guidance.

4.10.3 Effectiveness in ensuring that all procurements comply with this Policy will primarily be achieved through “business as usual” review by the Head of contracting within the CCG.

5 CCG'S PROCUREMENT PRIORITIES – SHORT AND MEDIUM TERM

The short and medium term procurement priorities for Leeds West CCG support the strategic objectives as set out in the Constitution. The procurement priorities are:

5.1 Short-term priorities

- 5.1.1 Empower members - Ensure relevant staff, suppliers, partners and stakeholders are aware of the procurement strategy and understand how the strategy relates to them in terms of the approach to procurement decisions and relevant legal requirements.
- 5.1.2 Involve users in procurement - Involve the people who use and provide our services in the procurement process to meet local needs, improve service design and delivery.
- 5.1.3 Identify responsibilities and roles of relevant staff in Leeds West CCG through the entire procurement process from inception through to contract end

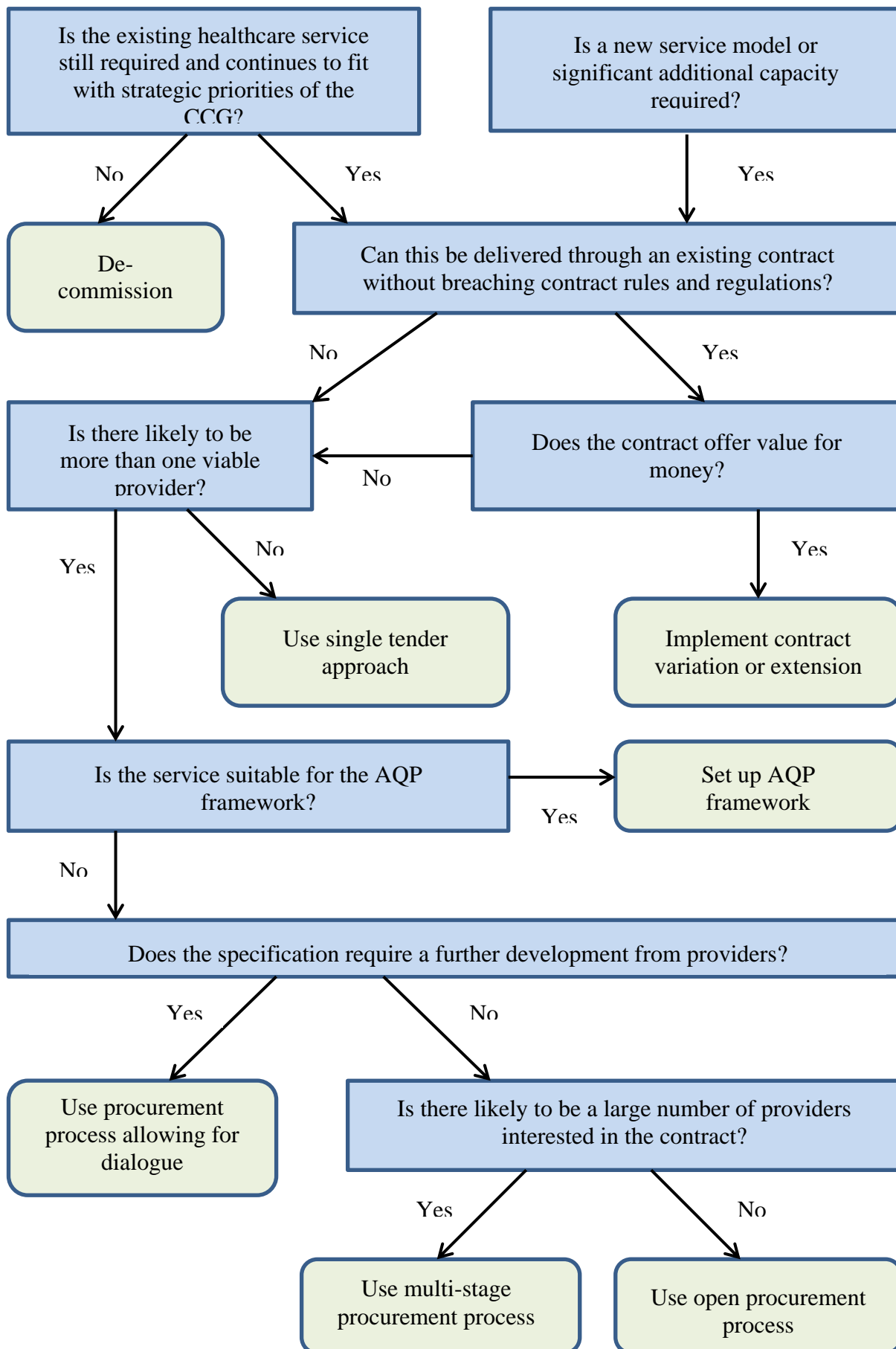
5.2 Medium term priorities

- 5.2.1 Understanding and influence the supply market - have a clear and current picture of the supply market in which the organisation operates and help to shape the market to meet the needs of the Leeds West population.
- 5.2.2 Procure resources effectively – ensure the continuation of the local health care economy whilst meeting saving targets and improving quality

5.3 Procurement Work Plan 2014-15

- 5.3.1 Appendix B sets out the CCG's 2014-15 procurement workplan.

Appendix A - Procurement Approach Pro-forma – DRAFT



To consider when implementing a procurement process

Contract values for procuring goods and services:

- Up to £4,999 requires a minimum 2 verbal quotations
- £5,000-£19,999 requires a minimum 3 written quotations
- £20,000-£29,999 requires a minimum 4 written quotations
- £30,000+ requires a competitive tendering process

Contract values for business case authorisation:

- Less than £50,000 authorising officer
- £50,000 - £172,514 (excluding VAT) authorisation from the senior management team
- £172,514 (excluding VAT) + authorisation from CCC

Contract award values publishing details:

- Over £10,000 published in contracts finder
- Over £25,000 published on Leeds West CCG website
- Over £100,000 published on NHS Supply2Health
- Over £172,514 (excluding VAT) published on OJEU

Appendix B - Procurement Work plan 2014-15

INTRODUCTION

NHS Leeds West CCG leads for the three Leeds CCGs on Acute services procurement and contracting including some services provided outside of hospital. We currently lead on a number of contracts inherited from Leeds PCT. Some of these were procured using AQP methodology such as Ophthalmology and ENT but there are others which did not go through a formal procurement process.

NHSE and Monitor advise that services should be procured through a transparent process and all providers of healthcare services contracted with using the NHS Standard Contract. Currently all our providers use the NHS Standard Contract, however not all services have been through a formal and transparent procurement process which could lead to a procurement challenge. This paper outlines the current position of contracts for services provided outside hospital and the plan for procurement projects for 2014-15 and seeks approval from the 3 Leeds CCGs to proceed.

PROCUREMENTS FOR CONSIDERATION

ECCLESHILL – The provider of services at Eccleshill Treatment Centre is currently Care UK. The services provided are mainly direct access diagnostics with some general and acute daycase procedures also undertaken. The current contract has been extended a number of times and is due to expire early July. The lead CCGs for this contract are Bradford City and Bradford Districts CCGs.

A procurement exercise has been underway since last October. Although the final outcome has not been formally confirmed, it is likely that no contract will be awarded and this will lead to a requirement for the CCG to undergo an AQP process for at least the direct access diagnostics and endoscopy procedures to replace the lost capacity. We will also investigate the availability of any relevant national framework agreement for diagnostic services to see whether this is a possible alternative to an AQP route. Without this additional capacity there will be a high risk of impact on waiting times and patient access so this procurement process will need to be conducted rapidly assuming no Eccleshill contract is awarded.

Depending on the Eccleshill procurement outcome this procurement will take precedence due to lack of diagnostic capacity from current providers.

OPHTHALMOLOGY – There are currently five community ophthalmology providers, four out of the five operating under AQP status. This AQP procurement was undertaken by Leeds PCT and the providers' qualified status is due to expire in March 2015. In order to ensure that local capacity is sustained there is a need to undergo a new AQP procurement.

Before reprocurring, we need to review the service model to ensure it provides equity of access for patients and ensures appropriate provision for the ageing population and for patients with long term eye care problems such as Glaucoma. We need to review different methods of service provision such as including optometrists in pathways and potentially redesigning the pathways to ensure coverage of all conditions at the most appropriate level.

It is proposed that a re-procurement exercise is undertaken following an analysis of the spectrum of need and the potential providers in the market.

ENT - There are currently five community ENT providers, all operating following an AQP procurement exercise. This AQP procurement was undertaken by Leeds PCT and the providers' qualified status is due to expire in March 2015. In order to ensure that local capacity is sustained there is a need to undergo a new AQP procurement.

One of the areas not included within the previous AQP was that of the provision of a hearing aid service. Nationally there have been previous procurement processes for hearing aids and it is felt that this area should be explored as an addendum to the current services.

It is proposed that a re-procurement exercise is undertaken following an analysis of the current services and the potential to broaden the service specification.

VASECTOMY SERVICES – There are currently five providers of vasectomy services inherited from NHS Leeds PCT supplemented by a small amount of activity undertaken at Eccleshill Treatment Centre and Marie Stopes. Continued provision of out of hospital vasectomy services is required to meet needs and the activity undertaken at Eccleshill will need to be incorporated (subject to the outcome of procurement)

An AQP process will need to be undertaken in order to ensure that procurement is undertaken in a fair, equitable and transparent manner in line with the requirements of Monitor and NHSE.

The service is straightforward and would be suitable for an early procurement whilst investigating service specifications and new pathways for Ophthalmology and ENT.

MINOR SURGERY SERVICES – There are currently five providers of vasectomy services inherited from NHS Leeds PCT supplemented by a small amount of activity undertaken at Eccleshill Treatment Centre. The services were originally established to offer minor surgery services closer to home and avoid hospital treatment.

An evaluation of the services is required to ensure that cosmetic procedures and those undertaken under the GMS contracts are not being carried out under these contracts. The initial assessment is that these services will require re-procuring.

A new specification for excision of low/medium risk Basal Cell Carcinomas is also being developed which can be delivered as an additional service if providers are sufficiently skilled and able to carry out such a service.

The service is straightforward and following assessment of current activity would be suitable for an early procurement whilst investigating service specifications and new pathways for Ophthalmology and ENT.

FURTHER CONSIDERATIONS FOR 2014-15

MSK PAIN MANAGEMENT – This service is provided by two AQP providers and their qualification expires in summer 2015. The nature of AQP accreditation requires that any changes to the specification demands a new AQP process to be undertaken.

The pain management pathway across the City is currently under review and consultation. If the new pathway is agreed it will potentially require changes to the existing service specification. If it is agreed to change the service then an AQP process will need to be built into the timetable.

UROLOGY – There are currently two community providers of Urology services inherited from NHS Leeds PCT in addition to the local Acute Trusts. Urology pathways are currently under review and if approved will require a change of specification. The new pathways will be subject to a pilot implementation and evaluation which can be undertaken using the current providers. If successful, the new services will then need to be opened up through the AQP procurement route. This will need to be built in to the timetable.

NON-HEALTHCARE RELATED PROCUREMENT

In addition to the healthcare services scheduled for procurement, the following areas of non-healthcare procurement of significance are also part of the 2014-15 workplan:

INTERNAL AUDIT SERVICES

The Leeds PCT tendered for and secured Internal Audit services over a three year contracted period which ran from April 2010 and was rolled over for an additional year as allowed for in the contract when CCGs were set up.. The service now needs to be tendered formally and discussions are already taking place between the three CCGs in Leeds and the Commissioning Support service to look at options for a joint and divisible tender process which would need to run from later this summer in order to be in place for 1 April 2015.

COMMISSIONING SUPPORT SERVICES (CSU)

The CSUs will be required to have been formally assessed, qualified for and joined a national framework by September 2014 from which CCGs will be able to procure services using an accelerated procurement process. The Leeds West CCG and Sheffield CCG have already moved onto the new format Service Level Agreement with the West and South Yorkshire and Bassetlaw CSU with detailed specifications still in the process of being finalised. We are working to be in the best possible position to prioritise services for retendering as soon as the process becomes clear nationally.

METHOD OF PROCUREMENT

The CCG has retained the services of the CSU to provide support in procurement. A number of processes will be undertaken by the CSU but the task of writing of specifications, bidder assessment and contract award and provider management will be retained by the CCG

RECOMMENDATION

It is recommended that the services as outlined above are approved for procurement/re-procurement in 2014-15 as outlined in the timetable below.

No	Service(s) to be procured	Procurement commencement
1	Diagnostics	April/May 2014
1a	Vasectomy	May 2014
2	Minor Surgery –(with BCC as appropriate)	June/July 2014
2a	MSK – pain service	August 2014
3	Ophthalmology	September 2014
4	ENT	November 2014
5	Internal Audit Services	August / Sept 2014
6	Commissioning Support Services	Autumn 2014

Note:

The Urology pilot could be implemented at any time during the year with the resulting procurement (if applicable) being undertaken in 2015-16