

Procurement Policy

CG21

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Applies to:	All NHS Resolution employees and non-executive directors. Contractors and agency staff
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1. Introduction

This policy has been written to set out the control measures for procurement within NHS Resolution. It should be read in conjunction with NHS Resolution's Procurement Manual. The Procurement Manual provides more practical guidance.

2. Purpose

- 2.1 A stretching and robust Procurement Strategy is an essential piece of the NHS Resolution's corporate documentation, as it not only gives direction and goals to Procurement staff, but also describes NHS Resolution's purchasing behaviour, which will need to be adopted, by all leaders, managers and individuals throughout the organisation in order to move the organisation forward. The strategic goal of the Procurement team is to achieve Confidence in Procurement and adherence to governance.
- 2.2 This Procurement Policy document describes the rules and regulations which the organisation must adhere to when purchasing any Goods, Services, or Works, from any third-party organisation.
- 2.3 The key legislation is the Public Contract Regulations 2015 (PCR 2015) and the main feeder document is NHS Resolution's Standing Financial Instructions (SFI's)

3. Policy Details

- 3.1 The purpose of this policy and procedure is to support NHS Resolution's values:

Professional -	Being an organisation which operates to the highest possible professional standards
Expert -	Being the centre of expertise for resolving claims, disputes and concerns about performance.
Ethical -	Having high standards and doing the right thing
Respectful -	Dealing with customers, colleagues, patients and the public in considerate and respectful way.

- 3.2 The key points of the policy are as follows:

- That failure to follow this policy could result in the instigation of disciplinary procedures for the individuals involved.
- That all NHS Resolution's purchases of Goods, Services and Works from third parties shall be undertaken as per the instructions, described in the SFIs, this Procurement Policy document, and UK Procurement Law (PCR 2015). In case of conflicts PCR 2015 always takes precedence.
- That failure to follow this policy could result in a procurement challenge being brought against NHS Resolution.

- That the Executive Director of Finance and Corporate Planning is the Senior Leadership Team member accountable for Procurement, with the Head of

Procurement as NHS Resolution's nominated Procurement Lead.

- NHS Resolution shall comply with the requirements of the Department of Health and Social Care, NHS England, Cabinet Office and HM Treasury regarding Capital expenditure; the procurement of Consultants and temporary staffing; and any other contentious areas of spend or central policies as they emerge. Reference should be made to the Delegated Authorities document issued by DHSC on 4th May 2022 incorporated in the Standing Financial Instructions and Procurement Manual, before incurring any expenditure.
- The use of non-standard procurement techniques not described in this document, such as reverse eAuctions, are permitted, following Crown Commercial Services best practice guidance, and with the approval of the Head of Procurement.
- All requests for external Legal assistance must go via Procurement in the first instance.

3.3 Tendering thresholds (based on a reasonable expectation of total through-life costs, including VAT) are as follows:

- Below £20k, authorised signatories can procure Goods and Services themselves, providing a quotation to Procurement. Formal tendering does not apply.
- Between £20k and £100k, the Request For Quote (RFQ) process shall be followed, where a minimum of three potential suppliers shall be given the opportunity to submit their written quotes for NHS Resolution's requirement. The winning supplier shall be selected on the basis of
 - o lowest price, or
 - o where technical evaluation is required, Most Economically Advantageous Tender.
- Between £100k and £138,760, the Open process shall be followed, where all potential suppliers shall be given the opportunity to submit their written tender for NHS Resolution's requirement. Whilst this is below the threshold defined in the PCR 2015 for in scope public bodies (it allows for instances where prices proposed exceed expected contract values. The winning supplier shall be selected on the basis of the Most Economically Advantageous Tender.
- Above £138,760, a process compliant with the PCR 2015.
- The use of a PCR 2015 compliant Framework is acceptable for any of the above thresholds, with guidance from NHS Resolution's Procurement lead, but may be subject to a Single Tender Action (see below).

3.4 Formal tendering may only be waived through the use of a Single Tender Action (STA) process. All procurement undertaken through this process shall be reported to DHSC on a regular basis and no funds shall be committed to a supplier until the STA is signed in accordance with the SFI delegation levels. Examples of appropriate STAs are:

- Where, in certain circumstances, an Existing Contract exists and there are additional requirements.
- Where there has been no acceptable response from the marketplace, to a competitive tender, or RFQ.
- Where there are clear technical or artistic reasons, or to protect Intellectual Property Rights (IPR), competition is absent.
- Where there is unpreventable extreme urgency
- Where a change of supplier would oblige NHS Resolution to acquire supplies which have different technical characteristics resulting in incompatibility in operation and

maintenance.

- There are a few particular situations which are not covered by either the PCR 2015 regulations, or the NHS Resolution's policy to compete. It is the budget holder's responsibility to ensure that neither this Policy, nor the Financial delegations within the SFIs have been breached, and that Value for Money (VfM) is obtained on behalf of NHS Resolution. The corporate Governance team will advise in these situations.

4. Fraud, Bribery and Corruption

Careful control over the procurement process is necessary to ensure best use of public funds and to protect NHS Resolution and individual employees against opportunity for error or fraud.

The NHS Resolution Senior Management Team have responsibility for ensuring that appropriate procedures and controls are designed, managed and monitored in order to protect the interests of NHS Resolution.

The Fraud Act 2006 states that; "any person who dishonestly makes a false representation to make a gain for themselves or another, or who dishonestly fails to disclose to another person information which he is under a legal duty to disclose, or commits fraud by abuse of position, commits an offence".

The Bribery Act 2010 states that; "giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith, is an offence".

Where the Organisation is engaged in commercial activity it could be considered guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person, intending to obtain or retain business or an advantage in the conduct of business for the Organisation and it cannot demonstrate that it has adequate procedures in place to prevent such.

Any concerns relating to potential fraud, bribery or corruption in the procurement process must be immediately reported to the Local Counter Fraud Specialist, the Director of Finance and Corporate Planning or the NHS Counter Fraud Authority. Your concerns will be treated in confidence and you can remain anonymous.

Further details on how to report concerns relating to Fraud, Bribery or Corruption please see Policy and Procedure (CG09).

5. Declaration of Interest

When participating in any aspect of procurement staff members are required to declare any personal interest which may affect or be seen by others to unduly influence or affect their impartiality in a matter relevant to their duties.

In the first instance this declaration should be to the Corporate & Information Governance Team (C&IGT)

At the commencement of a procurement all staff who are involved in the evaluation of suppliers' proposals will be given and must complete, sign and return a statement of

declaration to the C&IGT procurement lead. These declarations will be filed with the procurement documentation, held by the C&IGT.

This is in addition to the requirements of NHS Resolution's conflicts of interest policy which continues to be applicable.

6. Process for Review and Revision

This policy will be reviewed in three years' time unless legislative or other changes necessitate an earlier review.

7. Links to related Policies or procedures

This policy should be read in association with the following documentation:

- CG09 – Anti-fraud, Bribery and Corruption Policy and Procedure
- CG06 – Policy and Guidance for handling Conflicts of Interest
- FINP02 - Standing Financial Instructions Policy
- The PCR 2015 and subsequent policy notes and Procurement Policy Notes
- Internal NHS Resolution Procurement Manual 2022

8. Document control

Date	Author	Version	Reason for Change
05.01.18	Catherine O'Sullivan	Draft V1.0	First draft of revised policy and procedure to pull two documents into one.
10.01.18	Zenobia Christie	Draft V1.1	Redraft of the procedure to simplify the steps involved
25.01.18	Zenobia Christie	Draft V2.0	Amends to the procedure to include framework processes
30.01.18	Catherine O'Sullivan	Draft V3.0	Duplication between policy and procedure section removed
12.02.18	Zenobia Christie	Draft V4.0	Amend reference to NHS LA to NHS Resolution
22.02.18	Catherine O'Sullivan	Draft V5.0	Minor amends to procedure
22.02.18	Catherine O'Sullivan	Draft V. 5.1	Redraft to remove reference to DHSC sign off as this is being reviewed as a wider DHSC policy
25.04.18	SMT	Draft V 5.1	Minor amends and typo corrections received. Document Approved
10.08.18	ARC	Draft V 5.2 Endorsed	
27.4.21	SMT	V 5.2	SMT agreed review date extension until October 2021
14.09.21	Chris Woods	5.0	Initial Draft
10.12.21	Chris Woods	5.1	Further updates following review
March 22	Chris Woods	5.2	Further updates following external review by Hempsons
July 22	Chris Woods	5.3	Update of linked policy lists

Appendix 1 - Equality impact assessment tool

No.	Does the document/guidance affect one group less or more favourably than another on the basis of:	Yes/No	Comments
1.	Race		
2.	Ethnic origins (including gypsies and travellers)		
3.	Culture		
4.	Nationality		
5.	Age		
6.	Disability - learning disabilities, physical disability, sensory impairment and mental health problems		
7.	Gender		
8.	Gender reassignment		
9.	Marriage and civil partnership		
10.	Pregnancy and maternity		
11.	Religion and belief		
12.	Sex		
13.	Sexual orientation including lesbian, gay and bisexual people		
14.	Is there any evidence that some groups are affected differently?		
15.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?		
16.	Is the impact of the document/guidance likely to be negative?		
17.	If so, can the impact be avoided?		
18.	What alternative is there to achieving the document/guidance without the impact?		
19.	Can we reduce the impact by taking different action?		
Names and Organisation of Individuals who carried out the Assessment: Please give contact details			Date of the Assessment