

**CONTROLLED DOCUMENT**

## Procurement Policy

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<b>CLASSIFICATION:</b>	Governance <span style="color: red;">Class D – Information in the public domain</span>
<b>PURPOSE:</b>	To set out the legal framework within which all Trust Procurements must be conducted in.
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## 1. Policy Statement

- 1.1 This Procurement Policy lays out University Hospitals Birmingham NHS Foundation Trust's (the Trust) fundamental procurement principles and framework for all procurement activity. It underpins the Trust's Procurement Strategy and supports key recommendations from within the latest NHS Guidance documents; such as the Lord Carter report on "Unwarranted Variations", Department of Health's Procurement Transparency Policy and Better Procurement, Better Value, Better Care. This Procurement Policy aims to provide overarching guidance on University Hospitals Birmingham NHS Foundation Trust's procurement activities.
- 1.2 Public bodies must apply the highest professional standards when they spend money on behalf of taxpayers. Therefore the Trust must comply with the regulatory and legal framework for public procurement.
- 1.3 All thresholds in this policy exclude VAT.

## 2. Scope

- 2.1 This policy covers the purchase and supply of all goods, services and works required by the Trust whatever the source of funding. The Policy must be followed by everyone involved in the procurement process, including:
  - All budget holders;
  - Anyone who has contact with external suppliers;
  - Anyone involved in raising requisitions;
  - Anyone involved in evaluating equipment, goods, services or works for potential purchase;
  - Anyone with operational responsibility for an outsourced service provision; and
  - Anyone responsible for stock holdings.
- 2.2 This Policy ensures that the Trust has a consistent approach to all its commercial dealings and clarifies best practices that must be followed at all stages of the procurement cycle.
- 2.3 This policy will be reviewed at least every year and will be updated from time to time in accordance with developments in the Regulatory and Legal framework (see Section 6: References). 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.

## 2.4 Definition of Procurement

2.4.1 Procurement is the process by which organisations purchase goods, services and works from third parties.

2.4.2 Procurement processes apply to purchases of low risk generic items e.g. stationery through to high value complex requirements. It encompasses the full gamut of activities from identification of the business need, through the selection of suppliers and signing of the contract, to post-contract award management.

2.4.3 Good procurement is not just about getting the lowest price but about balancing whole life cost and fitness for purpose, with adherence to the Regulatory and Legal framework (see Section6: References) and treating suppliers fairly and equitably.

## 3. Framework

3.1 This section describes the broad framework for the Procurement Policy. Detailed instructions are provided in the associated procedural documents.

3.2 The Chief Financial Officer shall approve 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.

### 3.3 Abbreviations

<b>Term</b>	<b>Meaning</b>
CCS	Crown Commercial Service
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CMU	Commercial Medicines Unit
COO	Chief Operating Officer
DFM	Divisional Finance Manager
DOF	Director of Finance
DOH	Department of Health
DOP	Director of Operations
HoP	Head of Procurement
HTE	HealthTrust Europe
ITT	Invitation to Tender
NHS SC	NHS Supply Chain
NOE CPC	North of England Commercial Procurement Collaborative

PO	Purchase Order
PPQ	Pre-Purchase Questionnaire
PQQ	Pre-Qualification Questionnaire
PSED	Public Sector Equality Duty
SME	Small Medium sized Enterprises
STA	Single Tender Action
VCSE	Voluntary, Community and Social Enterprise
VFM	Value for Money

3.4 Procurement policies and procedures promote good purchasing practice, public accountability and guard against corruption. Procurement can also help to deliver other policy goals such as:

- Maintaining high clinical standards in the delivery of patient care, using medical equipment/devices that are for purpose and represent value for money;
- Environmental sustainability;
- Social development;
- Innovation;
- Creation of opportunities for Small to Medium Enterprises; and
- Equality of Opportunity.

3.5 The Trust's procurements must:

- Achieve 'Value for Money' (see Section 3.14 below);
- Be consistent with the highest standards of honesty, integrity, impartiality and objectivity;
- Ensure fairness in awarding contracts;
- Be transparent and able to stand up to audit;
- Comply with the Regulatory and Legal framework (see Section 6: References );
- Support the Trust's corporate aims; and
- Comply with all relevant Trust standards, policies and procedures.

### 3.6 Transparency

3.6.1 It is Trust policy to promote openness and accessibility, particularly in relation to its communications with the public and with all external organisations.

3.6.2 As part of the Trust's obligations to meet the Government's transparency agenda as required by the Public Contracts Regulations 2015 and the DOH "Procurement Transparency" guidance), the Trust is committed to publishing:

- On Contracts Finder: future opportunities (sometimes known as 'procurement pipelines') and invitations for suppliers to provide feedback on early procurement ideas (sometimes known as 'early engagement' or 'pre-procurement dialogue');
- On Contracts Finder: all opportunities over £25,000 unless the procurement is undertaken using an existing Framework Agreement or Dynamic Purchasing System or is to be awarded on a single tender basis;
- On Contracts Finder; all contracts awarded over £25,000 and an indication if the contractor is an SME or VCSE; and
- On the Trust website, details of total spend by supplier each month

3.6.3 The above ensures that small enterprises are sighted on public sector business opportunities, both future procurement plans and current opportunities to tender for new contracts; and there is transparency about how public money is being spent.

3.6.4 In addition, the Trust is committed to the sharing of procurement expenditure data with other NHS Providers to enable the comparison of prices and identification of savings opportunities. The Trust understands the importance of commercial benchmarking and is committed to completing regular benchmarking exercises for Procurement and participates in a number of groups which allow the Trust to frequently and cost effectively compare prices across a wide range of goods and services. The list below provides examples of typical benchmarking groups in which the Trust participates along with other NHS Providers:

- Shelford Group (cohort of 10)
- BravoSolution benchmarking group (cohort of 28)

- Carter review (cohort of 32)
- NHS SC benchmarking opportunities
- Heads of Procurement Group (benchmarking with local hospitals)

### 3.7 Responsibilities and Authority

3.7.1 All requests to purchase goods, services and works must be appropriately authorised under the Trust's Scheme of Delegation.

3.7.2 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 is likely to face disciplinary action and can be held personally liable for the commitment made.

3.7.3 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).

3.7.4 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.

### 3.8 Requests to Purchase Goods and/or Services

It is Trust policy that all requests to purchase goods and services shall be made through the Procurement Department in the form of an internal electronic requisition via Sage (and/or any other systems that may be approved going forward).

### 3.9 Good Practice

3.9.1 Good procurement practice is critical to minimising risk and providing high quality services to patients and procurement decisions must be made with due consideration of:

- Whole life costs
- Risk Management
- Clinical Effectiveness

- Total Supply Chain Costs / Routes
- Product Standardisation
- Competition
- Stock Holdings
- Environmental/Sustainability Impact

### 3.10 Effective Competition

3.10.1 Goods and services must be acquired through open competition unless there are convincing reasons why this cannot be achieved. Good practice dictates that all procurements over £10,000 must be competitive (as explained under 3.10.3 below) and all procurements with a contractual value of over £25,000 are advertised accordingly and open to full competition. Procurements exceeding EU procurement limits will also be advertised accordingly but may be subject to pre-qualification procedures.

3.10.2 Competition avoids any suggestion of favouritism and discourages supplier monopoly. It also contributes towards achieving best value for money, (VFM). The form of competition must be appropriate to the value and complexity of the requirement. The only exception to this is for requirements below £10,000, where the resource costs involved in obtaining competitive quotes may exceed any VFM that may be secured by competition. Nonetheless, where improved VFM can be achieved by competition, taking into account the resource costs involved, then competitive quotes may be obtained.

3.10.3 The Trust's procurement spend thresholds are summarised below and the procedures related to each threshold are set out in the Procurement Decision Model at Appendix B. Before seeking quotations or tenders, current contracts should be examined and if the need is already covered raise a requisition within Sage referencing the contract.

Threshold excluding VAT	£	Minimum* number of quotations/tenders	Activity
Up to £10,000		One or more quotations	<ul style="list-style-type: none"> <li>• If no contract exists, one or more quotations should be sought using suppliers already on Sage system where possible. Raise a requisition within Sage.</li> </ul>



£10,001 to £50,000	<ul style="list-style-type: none"> <li>• Three written quotations</li> </ul>	<ul style="list-style-type: none"> <li>• If no contact exists, work alongside buyers in Procurement Department to produce an Invitation to Quote (which will be issued via e-tendering system).</li> <li>• Where estimated spend exceeds £25,000 and quotations are not sought under a Framework Agreement or Dynamic Purchasing System then the opportunity must also be advertised on Contracts Finder, unless the contract is to be awarded on a single tender basis.</li> <li>• All quotations received should be evaluated for best VFM</li> <li>• Raise a requisition within Sage</li> </ul>
£50,001 up to EU Public Contracts Regulations threshold (currently £164,176) (or other applicable threshold, e.g. for works)	Three or more formal tenders	<ul style="list-style-type: none"> <li>• Conduct a formal tender with the involvement of Procurement</li> </ul>
EU threshold and above	Five or more formal tenders	<ul style="list-style-type: none"> <li>• Conduct a formal tender with the involvement of Procurement</li> </ul>

\*The Trust usually expects this number of suppliers to be involved in the procurement process but occasionally there may not be sufficient suppliers in the market or only one or a small number of suppliers decide to bid.

3.10.4 Except where otherwise provided by a framework agreement being used for a particular purchase, all procurement greater than £10,000 must be undertaken on the electronic tendering system. (However, where the procurement is undertaken as a direct award under a framework agreement and is less than £25,000 this need not be undertaken on the electronic tendering system unless this adds value).

3.10.5 The estimated total value of the contract will determine:

- Which procurement process needs to be followed; and
- The Trust Officer who is able under delegated authority from the CEO as per the Scheme of Delegation or otherwise, or the Board of Directors, to sign the contract on behalf of the Trust.

3.10.6 To determine the estimated total value of a contract, the whole of the potential expenditure over the life of the contract must be ascertained and included. For example, if it is proposed that the contract must allow for the Trust to either purchase additional goods or services under the contract or to extend the contract period beyond its initial term, the cost to the Trust of exercising these rights must be included in the estimate of the total contract value.

3.10.7 The risk or complexity of a purchase must be considered and this will sometimes require the procedures related to a higher threshold to be followed.

### 3.11 EU Procurement Regulations

3.11.1 For expenditure over the EU Threshold, the Trust must comply with the EU Public Sector Directive 2014/24/EU as transposed into UK Law (the Public Contracts Regulations 2015 (the 'Regulations').

3.11.2 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 on the route being followed.

3.11.3 Suppliers throughout the European Union are made aware of potential opportunities through the Official Journal of the European Union (OJEU). All requirements for goods, works and services that are subject to the Regulations must be advertised in the OJEU. Guidance on the thresholds, potential exemptions, timescales and procedures for advertising in the OJEU where applicable can be advised by the Procurement Department.

3.11.4 There are punitive remedies available to unsuccessful bidders where a contract has not been properly tendered under the Regulations. These remedies include:

- Automatic suspension of the tender process when a legal challenge is issued;
- A declaration that the awarded contract is ineffective where, for example, there has been a failure to advertise a contract or a breach of the procedural rules; and/or

- The imposition on the contracting authority of a financial penalty where a declaration of ineffectiveness has been made.

3.11.5 Budget holders must seek the advice of the Procurement Department who will advise on the appropriate procedure to be followed in each case.

### 3.12 Reasons for Single Tender Action (STA)

3.12.1 Sometimes known as 'Non-Competitive' or 'Waiver' action, Single Tender Action (STA) is required when procurements over £10K need to be made which cannot satisfy the minimum competition requirements. Great care is needed in authorising waivers, as it remains essential to achieve best VFM, and to ensure that the procurement process undertaken is fully defensible. The only situations where waivers may be justified are clearly identified in the Trust's Standing Orders.

3.12.2 Where users require goods or services to be 'waivered' they must take advice from the Procurement Department and provide suitable evidence to support the reason for a single tender action by submitting a Single Tender Action approval request via Finance Tools for approval by the Director of Finance, Chief Financial Officer, Chief Executive Officer or Board of Directors dependent on value.

3.12.3 Single Tender Actions in excess of the EU threshold can only be made if they fulfil the requirements of the EU Public Contracts Regulations. In relation to any such proposals the Procurement Department will, where necessary, seek advice from the Director of Corporate Affairs.

### 3.13 No PO (Purchase Order) No Pay

3.13.1 The Trust operates on a 'no PO no pay' procedure, where all invoices received into the Trust without a valid PO number will be rejected and returned to the supplier as not compliant with Trust policy, and may result in payment delays, or even non-payment.

3.13.2 All contracts above £10,000 awarded by the Trust must be appropriately uploaded onto the electronic tendering system to enable central monitoring of all Trust contracts, effective expenditure control and contract monitoring. No work shall commence until a signed contractual agreement is in place and a purchase order has been raised. No letters of intent must be signed to allow work to commence prior to contract signature.

### 3.14 Achievement of Overall Best Value for Money

3.14.1 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.

3.14.2 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 Trust only goes 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.

### 3.15 Whole Life Cost Analysis (WLC)

3.15.1 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.

### 3.16 Weighted Evaluations

3.16.1 All invitation to tender (ITT) exercises will have a weighted evaluation model which takes into account both qualitative and financial/economic aspects of bids. Tenderers will be made aware of the model which must be published in the ITT document. Guidelines for producing and using weighted evaluation models are detailed within the Procurement purchasing procedures.

3.16.2 Weighted evaluations models must be agreed with the key decision makers prior to procurements for all purchases, where qualitative aspects of both goods and services need to be evaluated. Key decision makers will include budget holder(s), key person/personnel leading the qualitative assessment of suppliers' bids and Finance department representation.

### 3.17 Utilisation of Existing Contractual Arrangements

3.17.1 As an NHS body, the Trust is able to access contracts for goods, services and works already let by national/regional authorities to achieve optimum quality and VFM for the NHS. These include:

- Regional Collaborative Hub Contracts such as NOE CPC or HTE
- National Contract/Framework Arrangements, such as CCS or NHS SC
- Shelford Group commercial arrangements
- National Pharmacy Frameworks such as the Commercial Medicines Unit (CMU) and those let by any other appropriate regional hubs
- Any other collaborative framework agreements let by other NHS providers and available for the Trust's use

NB. Utilising these types of arrangements need to be checked to ensure the Trust meets its 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.

3.17.2 Where more than one existing contractual arrangement is available all options will be evaluated and the choice made on the basis of best value for money.

### 3.18 Obtaining Value for Money from National Framework Agreements

3.18.1 Many national framework agreements have been set up in order to allow Trusts to undertake 'mini-competitions'. This is a facility that allows the Trust to provide detailed information on requirements to all the suppliers on the framework allowing them to provide a tailored bid specifically for the Trust but in line with the terms and conditions of the framework agreement.

3.18.2 Wherever feasible, the Trust will undertake mini-competitions against framework agreements to ensure value for money is obtained. Mini-competitions will be undertaken in all circumstances where it is a requirement of the framework agreement.

### 3.19 Managing Inflation

The Trust resists blanket inflationary price increases from suppliers in accordance with the DOH "Combating Inflation – Guidance". The Trust

will engage with suppliers to find ways to avoid inflationary cost increases such as increased business or prompt payment.

### 3.20 Environmental Impact / Sustainable Procurement

Procurement presents the Trust with many opportunities to adopt practices that promote sustainable action. This is achieved by building sustainability considerations into all aspects of the procurement process. The Trust has a Sustainable Procurement Strategy which is set out in Appendix D.

### 3.21 Equality and Diversity

3.21.1 It is Trust policy that appropriate equality and diversity considerations be incorporated into the production of specifications in a proportionate way, the evaluation of tenders, and contractor performance management. 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 and therefore achieve value for money, while helping meet corporate objectives.

3.21.2 The aim is to ensure that suppliers work to eliminate the potential for unlawful or unfair discrimination to occur in relation to their employment practices 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 contractors' obligations and will include specific reference to the requirements of the Trust's Equality and Diversity in Employment Policy.

3.21.3 In line with the Equality and Human Rights Commission publication 'Buying Better Outcomes' the Trust aims to adhere to the requirements of the PSED and the Equality Act 2010.

3.21.4 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 their suppliers to take certain steps (such as monitoring service users), in order to meet their continuing legal obligation to comply with the PSED.

### 3.22 Health and Safety (H&S)

3.22.1 It is Trust policy that all contractors working for the Trust, and not just in areas within the hospital sites, abide by the Trust health & safety procedures and all relevant health & safety legislation. Where relevant, all contractors must come through Estates and

Facilities and comply with the control of contractor's policy and rules.

3.22.2 Any work carried out by Trust staff that may cause potential risks to any suppliers or contractors will be assessed, and control measures put in place to eliminate or reduce those risks. Relevant information must be given to contractors to ensure that, when working on Trust property, they fully comply with its H&S policies. Any work carried out by contractors, which may cause potential risks to other users of Trust's premises, must be assessed and control measures put in place to eliminate or reduce those risks. Relevant information must be given to all those potentially affected. Additionally, all reasonable steps must be taken to ensure that potential contractors have effective H&S policies and procedures in place. The responsibility for managing contractors whilst on or off the Trust site rests with the authorised officer of the department commissioning the work.

### 3.22.3 Public Services (Social Value) Act 2012

The Act requires the Trust to consider the social 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. Although the Act only applies to certain public services, contracts and framework agreements to which the EU Regulations 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 evaluation criteria to include impact on the local economy. 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 Trusts 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.

### 3.23 Ethical Standards

3.23.1 It is Trust policy that all suppliers must be treated fairly and equitably and purchasers and Trust staff engaged in the procurement process must always act with integrity and honesty.

3.23.2 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 policy on Standards of Business Conduct as set out in the Trust's Standing Orders. Additionally, Procurement

Department Staff are expected to abide by the Chartered Institute of Procurement and Supply's Code of Conduct.

3.23.3 Purchasers, and other Trust staff, contractors and management consultants involved in the procurement process, must always be honest, fair and impartial in their dealings with suppliers. Relationships with suppliers must always be conducted on a professional basis, with proper regard to ethics and propriety.

### 3.24 Commercial Representatives and Suppliers Visiting Clinical Areas

3.24.1 The Trust appreciates the role that current and potential suppliers play in supporting health practitioners in providing safe, effective, and economic products and services to the patients in their care, and other staff within the NHS in the delivery of their duties.

3.24.2 It is the policy of the Trust, therefore, to ensure that an effective, efficient, and consistent approach is adopted in developing excellent relationships with the Trust's current and potential suppliers and their representatives.

3.24.3 Visitors are required to follow the Supplier Protocol as detailed on the Trust's procurement website and included at Annex B of this policy.

### 3.25 Declarations of Interest

It is Trust policy that all Trust staff (including agency/temporary staff) must declare and record any personal interest that might influence, or be seen by others to influence, their impartiality in arriving at a purchasing decision. Those who have business or personal relationships with, or friends/relatives employed by, outside organisations bidding (or whom 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.

### 3.26 Personal Gain and Gifts

3.26.1 The confidentiality of information received in the course of employment must be respected and never used for personal gain.

3.26.2 It is Trust policy that staff involved in procurement activity, or others who may be perceived to be in a position of influencing purchasing decisions, may not solicit or accept contributions of



any kind from existing suppliers, those currently bidding for Trust contracts, or suppliers who could conceivably be bidders for future contracts.

3.26.3 Trust staff may only accept small “desk top” gifts such as diaries, pens and calendars. Records of any other gifts offered, whether or not they were accepted, must be kept. It is a disciplinary matter for Trust staff to accept gifts or consideration as an inducement or reward for:

- Doing or refraining from doing something
- Showing favour or disfavour to any person or organisation

3.26.4 All Trust staff must adhere to the Trusts Hospitality, Gifts and Sponsorship Policy.

### 3.27 Freedom of Information Act

3.27.1 The Freedom of Information Act 2000 identified NHS Trusts as ‘public authorities’ and therefore subject to the provisions and obligations of that Act. This means that, from 1 January 2005, any person who makes a valid request for recorded information held by the Trust will be entitled to receive it - unless all or part of that information can justifiably be withheld as a result of the exemptions contained in the Act. The Freedom of Information Act also requires each public authority to produce and maintain a “publication scheme”. The following procurement-related information is currently published within the Trust’s publication scheme:

- Procurement Policy
- Sustainable Procurement Strategy

3.27.2 The Trust will consider all requests made about procurement matters with regard to potential commercial sensitivity.

### 3.27.3 Press Releases by Contractors

A supplier may wish to make a press announcement or issue an article (perhaps including photographs) about a contract they have been awarded. Before agreeing to such an announcement, the member of staff approached must provide full details to the Trust Communications Department, who will consult with the Head of Procurement on the appropriateness of granting any approval.

### 3.28 Request for References

From time to time, references may be sought from potential customers of Trust contractors. Before references are provided, either verbally or in writing, prior advice must be obtained from the Head of Procurement. References may only be provided by the relevant budget holder or director. A copy of all references provided must be sent to the Procurement Department for its records.

### 3.29 Information Governance and Security

3.29.1 For contracts where the third party supplier will have access to the Trust network, information systems or data; appropriate supplier checks 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.

3.29.2 Further guidance can be found in the Information Governance Policy for Third Party Suppliers which can be found on the Trust intranet and procurement website.

3.29.3 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.

### 3.30 NHS Improvement (Monitor) Spending Controls

3.30.1 Advice from the Procurement Department may be sought in relation to contracts which fall within the spending control processes summarised below:

*a. Consultancy spending approval process:*

- i. Consultancy spending is subject to the NHS Improvement "Consultancy spending approval process". Consultancy contracts over £50,000 require prior approval by NHS Improvement (the £50,000 threshold includes irrecoverable VAT and other costs e.g. expenses). Foundation Trusts are required to submit a business case to NHS Improvement for approval; these can be submitted either after the conclusion of a procurement process or in advance of procurement.

- ii. 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).
- iii. Foundation Trusts are not currently required to seek approval for:
  - Contracts below £50,000 (including irrecoverable VAT and other costs);
  - Interim management and day rate contractors.
- iv. Internal and external audit are not included within the approval process.
- v. 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) exceeds £50,000. The business case for the extension value must be submitted to NHS Improvement prior to the contract being extended.

*b. Agency rules:*

- i. Agency spend is subject to the NHS Improvement "Agency Rules". The rules include the need to:
  - Comply with a ceiling for Trust total agency expenditure (as a proportion of the Trust's total staffing bill)
  - Procure all agency staff at or below price caps set by NHS Improvement
  - Use approved framework agreements to procure all agency staff
- ii. 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

- The agency fills a shift directly;
  - 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
  - Workers are paid through a limited/personal service company or are engaged via a third party limited liability partnership.
- iii. The price caps do not apply to:
- Substantive/permanent staff
  - Bank staff (both in-house banks and outsourced banks)
  - Staff employed by the Trust on a fixed term contract.
- iv. 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.

### 3.31 Terms and Conditions of Contract

The NHS has its own model forms of contract which cover general Goods and Services Contracts. 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 Trust advantage) without consulting with the Procurement Department who will obtain legal advice if judged necessary.

### 3.32 Other Procurement Related Areas

#### *E-Commerce*

3.32.1 The Trust's e-commerce systems include:

- An electronic finance system which allows authorised individuals to raise requisitions, routing these for approval and generation of a purchase order (SAGE);
- An on-line Contracts Database and Contract Management System (BRAVO);
- An on-line pre-qualification (PQQ)/e-Tendering system (BRAVO); and
- On-line bid evaluation software (AWARD).

3.32.2 All internal requisitions and subsequent purchase orders will be placed via SAGE and/or any other systems approved for this use going forward.

3.32.3 All tenders and related tender advert notices are placed through the Trust's e-tendering system provided by BravoSolution.

3.32.4 Records of all Trust contracts for goods, services and works over £10,000 will be maintained using the Trust's contracts register database integrated into BRAVO.

#### *Medical Device/Equipment Procurements*

3.32.5 All medical device/equipment procurements will be undertaken in line with the financial thresholds for competitive sourcing and the Trust's Procedure for the Trials and Evaluation of Medical Devices. Medical device/equipment contracts with a value above the tender threshold will be subject to open competition and advertised to the supplier market.

3.32.6 A generic specification will be produced by the agreed Project Owner for the procurement which will allow suppliers' offers to be clearly evaluated. It is the responsibility of the Project Owner 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.

- 3.32.7 Trials of medical devices/equipment will only be undertaken within a clear framework for the evaluation process, identifying the key criteria that are to be assessed. This framework must be agreed in advance with the Procurement Department and only after a source of funding has been formally agreed. Unmonitored medical device/equipment trials may compromise patient safety and existing contracts if not notified to the Procurement Department. All trials must be recorded on the trial register held by Procurement in accordance with the Trust Procedure for the Trials and Evaluation of Medical Devices.
- 3.32.8 Confirmation that the supplier is listed on the National Master Indemnity Agreement must be sought prior to the trial of all medical equipment. If they are not, a separate NHS Indemnity Form must be completed by the supplier and the Trust, prior to the trial, to minimize the Trust's liability if the equipment malfunctions and causes harm or misdiagnosis.
- 3.32.9 Weighted evaluation criteria for equipment procurement evaluations will be agreed in advance by the evaluation team. 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.
- 3.32.10 Prior to purchase the Trust will ensure appropriate technical information/advice is provided by the supplier for any decontamination/cleaning protocols required.
- 3.32.11 Any equipment to be used for diagnostic or treatment purposes will only be purchased following the completion of a Pre-purchase questionnaire (PPQ) that has been reviewed and authorised by the Trust's Medical Engineering Manager.
- 3.32.12 Contracts must contain relevant provisions for all necessary training to be provided and for instruction/user manuals to be available for those who will operate the equipment.
- 3.32.13 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.
- 3.32.14 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 direct 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 value for money and can be funded from existing revenue streams.

### 3.33 Product Rationalisation and Standardisation

It is Trust policy that there will be an on-going programme of product rationalisation and where appropriate, standardisation. This will help to maximise the value for money the Trust can obtain through the consolidation of requirements. Product standardisation can also reduce clinical risk through eliminating unnecessary variation in the ranges of clinical products used for the same procedures as well as reducing training and maintenance requirements.

### 3.34 Procurement Training

3.34.1 Effective and relevant procurement training is a key element in the drive to increase the level of professionalism among all staff involved in the procurement process. The Procurement Department will commit to supporting and encouraging relevant developmental training and procurement qualifications. The Procurement Department will provide a formal training strategy for all staff involved in the procurement process with particular emphasis on Chartered Institute of Procurement and Supply standards and qualifications. In addition, all Procurement Department staff will have an agreed Personal/Professional Development Plan.

3.34.2 The Head of Procurement will provide advice and support to the Procurement Team regarding the implementation of this policy.

3.34.3 The Procurement Department will provide training to Heads of Departments, Trust Managers and Budget holders to ensure understanding and compliance to the policy.

3.34.4 The Procurement Department will provide, when required, training to relevant Trust staff in the use of the Trust's e-commerce systems.

### 3.35 Small and Medium-Sized Enterprises (SMEs)

3.35.1 There is a good case on value for money (VFM) and social/economic grounds for taking steps to remove barriers to

participation by SMEs in public procurement. The Trust supports this approach. "SME" means a business with a headcount of less than 250; an annual turnover of no more than €50m; and/or a balance sheet total not exceeding €43m.

3.35.2 There are many ways in which this can be done, such as improving access to procurement opportunities and information, in a manner that does not discriminate against larger firms and which helps to improve VFM by increasing competition.

3.35.3 It is Trust policy to actively remove barriers to participation by SMEs in Procurement processes. The Trust will advertise all contract opportunities over £25,000 (unless the procurement is undertaken using an existing Framework Agreement or Dynamic Purchasing System or is to be awarded on a single tender basis) on the Contracts Finder portal to make it easier for smaller businesses and voluntary and charitable organisations to do business with the Trust. The Trust has abolished the use of a pre-qualification stage for procurements below the EU threshold in accordance with the Regulations. For over the EU threshold procurements the Trust will have regard to the guidance on qualitative selection issued by CCS and will use the standardised PPQ questions as appropriate.

3.35.4 Additional to the above point, where relevant the Trust will include within its core requirements of contract for prime contractors, to support small, specialist or voluntary sector organisations.

### 3.36 Prompt Payment

The Trust is committed to paying its suppliers promptly and includes provisions in all contracts to ensure prompt payment through the supply chain. In accordance with the Regulations the Trust will pay invoices within 30 days from the date on which the invoice is regarded as valid and undisputed. The Trust will publish statistics on its website showing the proportion of invoices paid in accordance with these obligations, the total amount of any liability to pay interest which arose and the amount of interest actually paid.

### 3.37 Innovation

The Procurement Department will always be open to new and innovative ways of delivering a better service which will in turn provide better patient care and maximise cash releasing savings opportunities to the Trust. The Procurement Department will proactively work with Suppliers and NHS colleagues on future innovative projects, and will embrace new ideas and working practices.



### 3.38 Collaboration and Joint, Shared Working

Working collaboratively with other NHS providers (where appropriate) is embedded into the core purchasing principles of the Procurement Department as illustrated by its membership of the Shelford Group. Where there is benefit identified from a collaborative approach, such as reduced procurement costs and savings opportunities through aggregation of demand, this will be the favoured option.

### 3.39 Cost Improvement Programme (CIP)

Through strategic approach, the Procurement Department key objective is to work with clinical leads, budget managers and the supply market to achieve cash releasing savings to support the Trust's Cost Improvement Programme (CIP), whilst maintaining or improving the quality of goods and services for the benefit of patients of the Trust. Through compliant purchasing techniques and procedures the department aims to achieve its contribution towards the NHS' savings targets, as determined by the Department of Health and/or NHS Improvement.

## 4. **Duties**

### 4.1 **Chief Financial Officer (CFO)**

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:

- Ensuring adequate resources for the Procurement Department are in place to implement this policy;
- Monitoring the suite of Procurement related documents ensuring they are kept up to date for use or inspection by audit; and
- 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 (see Section 6: References).

### 4.2 **Chief Operating Officer (COO)**

The COO is responsible for monitoring the progression and performance of the Procurement Department in meeting Cost Improvement Programme (CIP) targets (see Section 3.39). This is monitored via submissions to monthly Financial Improvement Group (FIG) meetings.

#### 4.3 **Head of Procurement (HoP)**

The HoP reports to the CFO and is responsible for:

- The Trust's procurement strategy and policy for goods, service and works including supply chain engagement and stock management;
- Implementing and developing procurement best practice across the Trust;
- The activities, management and performance of the Procurement Department;
- Providing a professional procurement overview across the whole of the Trust;
- Supporting and monitoring adherence to this policy at a strategic level;
- Ensuring procedures and associated documents remain up to date with the Legal and Regulatory Framework (see Section6: References); and
- and obtaining legal advice where appropriate, in consultation with the Director of Corporate Affairs.

#### 4.4 **Procurement Specialists**

The Procurement Specialists will promote the Procurement Policy in all monthly divisional FIG/CIP meetings and in all other meetings they regularly attend.

The Procurement Specialists 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.

The Procurement Specialists, 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 Trust business.

#### 4.5 **Budget Holders**

It is the responsibility of individual budget holders to ensure when making procurement related decisions that they adhere to the above

policies. Budget holders and end users must always ensure procurement staff in the Procurement Department are engaged about a new procurement requirement from the outset. They can provide advice on many issues such as how to engage potential suppliers in early 'without commitment' discussions to develop the proposed procurement route; keep the field of potential suppliers sufficiently broad to keep options open, stimulate effective competition and avoid potential claims of unfairness; ensure aspects such as the potential impact of the EU Procurement Directives are properly considered; determine the key areas of commercial risk; devising strategies for their mitigation and management; and identify the contracting strategies and the alternative pricing options available.

Advice from the Procurement Department may 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 £10,000 or more, excluding VAT.

#### **4.6 Authorised Staff with Access to Procurement Systems**

All staff that can access a procurement related system, i.e. Sage, Finance Tools, BravoSolution or NHS SC and any other systems that may be approved going forward must ensure that they adhere to the above policies.

If applicable to new starters who have a procurement related role they must be informed by their line manager at their departmental induction about Trust Procurement policies and procedures.

#### **4.7 All staff**

It is an individual responsibility for all Trust staff to be familiar with and adhere to this Procurement Policy.

### **5. Implementation and Monitoring**

5.1 This policy will be available on the Trust's Intranet Site and the Procurement website and disseminated through the management structure within the Trust. The policy will be promoted to all staff through the Trust's "in the Loop"

5.2 The compliance and effectiveness of this policy will be monitored by the Trust as set out in Appendix A.

### **6. References**

Agency rules – NHS Improvement – March 2016

Better Procurement, Better Value, Better Care: A Procurement Development Programme for the NHS - Department of Health – August 2013

Buying Better Outcomes (Mainstreaming equality considerations in procurement) – A guide for public authorities in England – Produced by Equality and Human Rights Commission – March 2013

CIPS Code of Conduct – Chartered Institute of Procurement and Supply (CIPS) – September 2013

Combating Inflation – Guidance – Department of Health – February 2014

Consultancy spending approval process: Initial guidance to NHS foundation trusts – Monitor - 2015

Data Protection Act 1998

Department of Health and Crown Commercial Service best practice guidance on procurement

Domestic case law

EU case law

EU Public Sector Directive 2014/24/EU as transposed into UK Law as the Public Contracts Regulations 2015

EU Treaty principles which require transparency, equal treatment and appropriate and fair competition

HM Treasury's publication entitled 'Managing Public Money'

NHS Improvement guidance, controls and/or approval processes

Operational Productivity and Performance in English NHS Acute Hospitals: Unwarranted Variations – Lord Carter – February 2016

Procurement Transparency – Department of Health – March 2015

Public Contracts Regulations 2015 New requirements relating to Pre-Qualification Questionnaires to help businesses access Public Sector contracts – CCS - 2015

Public Contracts Regulations 2015: Statutory guidance for contracting authorities and Suppliers on paying undisputed invoices in 30 days down the supply chain – CCS - 2015

The Bribery Act 2010

The Equality Act 2010  
The Freedom of Information Act 2000  
The Health and Safety Act 1974  
The Health and Social Care Act 2012  
The Modern Slavery Act 2015  
The Public Contracts Regulations 2015 – February 2015  
The Public Services (Social Value) Act 2012

**7. Associated Policy and Procedural Documentation**

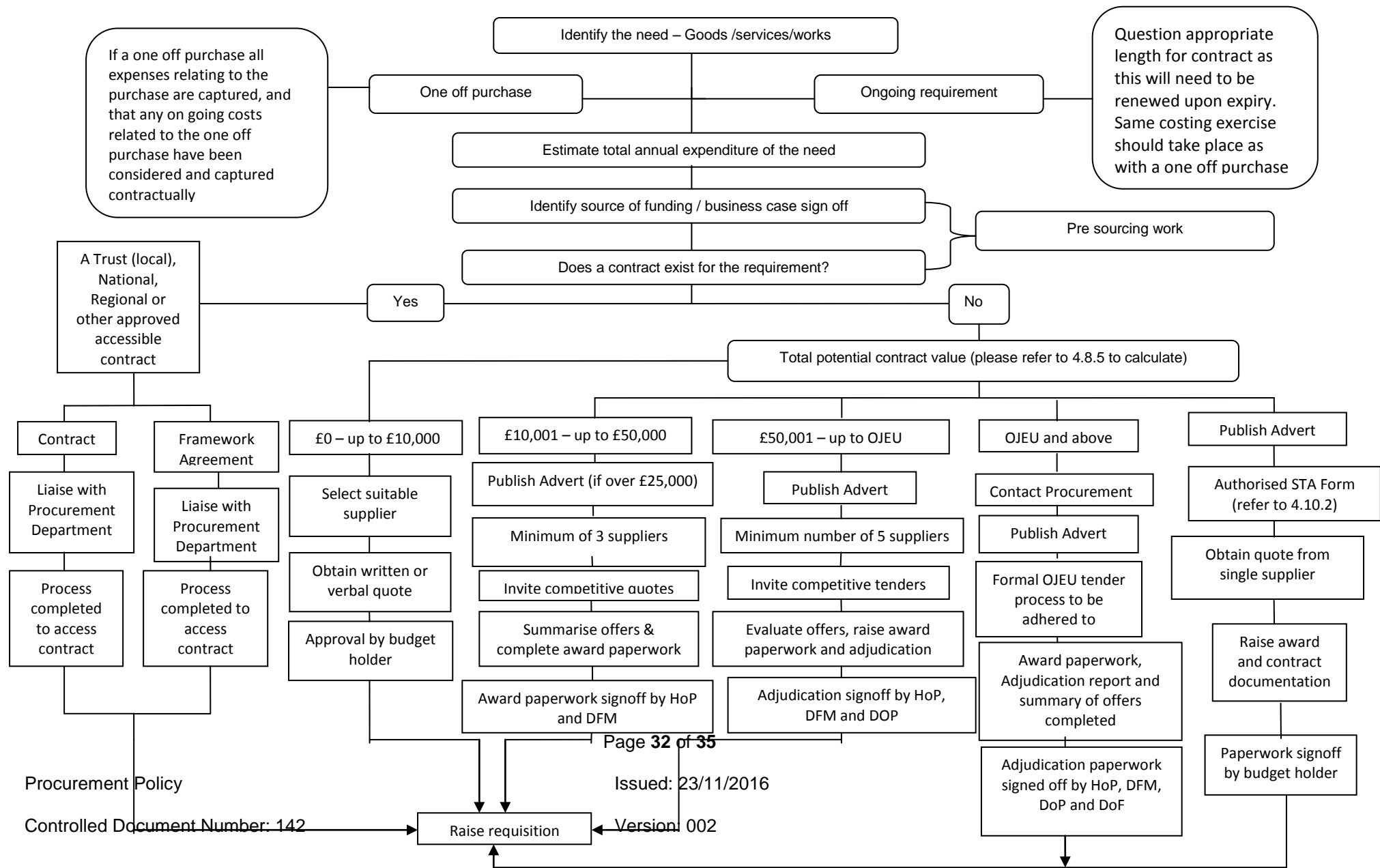
Corporate Governance Policy  
Equality and Diversity in Employment Policy  
Freedom of Information Act and Environmental Information Regulations Policy  
Hospitality, Gifts and Sponsorship Policy  
Information Governance Policy for Third Party Suppliers  
Information Security Policy  
Procedure for obtaining legal advice  
Procedure for the Trials and Evaluation of Medical Devices  
Risk Management Strategy and Policy  
Scheme of Accountability and Delegation  
Staff Code of Conduct  
Standing Financial Instructions  
Standing Orders

**Appendix A**

**Monitoring Matrix**

<b>MONITORING OF IMPLEMENTATION</b>	<b>MONITOR LEAD</b>	<b>REPORTED TO PERSON/GROUP</b>	<b>MONITORING PROCESS</b>	<b>MONITORING FREQUENCY</b>
<p>The Procurement Policy is adhered to by all staff within the Trust</p>	<p>Procurement Team</p>	<p>Procurement Team, Head of Procurement, Chief Financial Officer</p>	<p>Reports from:</p> <ol style="list-style-type: none"> <li>1) The Trust's systems for raising requisitions and Purchase Orders</li> <li>2) The Trust's Bravo spend analytics tool</li> <li>3) Corporate Affairs relating to the number of challenges made</li> <li>4) Quarterly Audit Committee reports and Finance Tools system relating to the number of STA's raised and authorised inappropriately</li> <li>5) Finance Tools systems relating to the number of Call-Off Schedules raised and authorised inappropriately</li> </ol>	<p>Monthly</p>
<p>The procurement of all goods and services is executed within agreed procurement policy and procedures as set out in the Procurement Procedures Manual</p>	<p>Head of Procurement Head of Financial Systems</p>	<p>Chief Financial Officer, Director of Finance, Director of Corporate Affairs, Audit Committee</p>	<p>Regular and appropriate independent audits will be carried out on procurement activity. A planned audit programme will be developed annually by the Trust's Audit Committee to cover the following procedures:</p> <ol style="list-style-type: none"> <li>1) Purchase Orders raised through the main purchase order system by Procurement Staff</li> <li>2) Purchases made outside the Procurement Department e.g. delegated systems</li> <li>3) Tendering processes for requirements in excess of £50,000</li> </ol>	<p>In accordance with annual Audit Plan.</p>

			<p>4) High value business-critical projects</p> <p>The exact details of each year's audits, including publishing schedules etc. will be as confirmed by the Trust Audit Committee and approved by the Trust Board.</p>	
<p>Increased Trust staff engagement with the Procurement Department :</p> <ul style="list-style-type: none"> <li>• Seeking Procurement guidance</li> <li>• Requiring Procurement to manage and lead on OJEU tenders</li> <li>• Requesting Procurement to aid / facilitate / lead on other procurements</li> </ul>	Procurement Team Finance	Head of Procurement	1) Procurement Work Plan relating to number of planned and left field procurement projects	Bi-yearly
Reduction in the number of invoices being submitted to the Trust without an official Purchase order number	Head of Procurement Purchase Ledger Finance	Chief Financial Officer	<p>Quarterly reports from:</p> <p>1) Purchase ledger related to number of invoices without supporting purchase order</p>	Quarterly





## Appendix C

### Supplier Protocol

The Trust works closely with its suppliers to deliver high quality healthcare services. A Supplier Access Policy operates to ensure that an effective partnership exists between all parties.

#### **10 Golden rules' have been adopted.**

1. The Trust Procurement Department is the first point of contact both for current; new and potential suppliers.
2. All supplier/company staff whilst on site must wear an ID badge with their name and company clearly visible.
3. Trust staff must seek advice and support from the Procurement Department where there are issues/queries.
4. "Cold Calling" or visiting Wards/Departments without permission or an appointment is strictly prohibited.
5. Orders for goods or services must not be solicited from Trust staff – the only recognised documentation is an official order issued by the Procurement Department.
6. Price/Commercial discussions can only be conducted in conjunction with the Procurement Department.
7. Trust staff must not be offered samples of products unless by prior agreement with the Procurement Department.
8. Business gifts (other than items of a very small intrinsic value such as diaries or calendars) must not be offered and will not be accepted.
9. Items of Medical equipment loaned to the Trust will be subject at all times to our Medical Equipment Management procedures including indemnity arrangements.
10. Ensure professionalism and courtesy are shown and reciprocated at all times.

Contact details for new/potential suppliers E-mail us at – [procurement@uhb.nhs.uk](mailto:procurement@uhb.nhs.uk)

Ring us on 0121 627 2871.

Write to us enclosing product/service details at Procurement Department (Enquiries) University Hospitals Birmingham NHS Foundation Trust, Kings Norton Business Centre, 32-34 Melchett Road, Kings Norton, Birmingham, B30 3HG. We aim to reply within 5 working days from your initial contact to us.

## **Appendix D**

### **Sustainable Procurement Strategy**

**Sustainable Procurement** can be defined as:

‘A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis and generates benefits not only to the organisation, but also to society, the economy and the environment’.

The Trust is committed to the following:

- Complying with all relevant UK Government policies on sustainable development and sustainable procurement , and all relevant legislation and regulations;
- Ensuring that sustainability principles are given due consideration at each stage of the procurement process, including:
  - Developing an in-depth understanding of the sustainability issues relevant to each category;
  - Building a detailed appreciation of customer’s sustainability requirements, and ensuring that customers have access to sustainable products and services to assist them in meeting these requirements;
  - Working with suppliers, including early market engagement, and working post-award to seek ongoing improvements to suppliers’ sustainability performance and that of their supply chains; and
  - Encouraging the appropriate uptake of sustainable products and services
- Reducing the demand for goods and services by minimising waste and focusing on the re-use and recycling of existing goods and medical equipment;
- Including in our tender processes eligibility and evaluation criteria that take into account environmental issues, sustainability, local economic and social value factors as legally appropriate;
- Considering ‘whole life’ costs and impacts when assessing equipment for purchase or lease;
- Considering products that are Fair Trade certified;
- Purchasing and/or prioritising those items that are manufactured with a high recycled content;

- Making maximum use of telephone conference facilities with suppliers etc. to reduce business travel;
- Engaging with suppliers to : Promote awareness, encourage suppliers to adopt similar ethical and sustainable approaches in their supply chains, address barriers to entry for SMEs and local suppliers, encourage development and promotion of new sustainable medical equipment/devices, services and initiatives;
- Raising internal awareness of sustainability issues through the promotion and communication of relevant information.