

Procurement Policy

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Procurement Policy

1 Introduction

- 1.1. Procurement is the process of acquiring goods, works and services, covering both acquisitions from third parties, other NHS Trusts and any in-house suppliers providing a commercial service.
- 1.2. The process spans the whole life cycle from identification of needs, management of the process and through to its expiry and disposal.
- 1.3. The management of procurement is important to the efficiency and effectiveness of the Trust's services. Patient care and student experience depends on the guaranteed availability of quality equipment, premises, materials and services. Accountability for the expenditure of taxpayer's money requires that sound economic decisions are taken in relation to procurement.
- 1.4. The Tavistock and Portman NHS Foundation Trust ("Trust") recognises that the provision of quality patient care and student experience is supported by using cost effective procurement processes which deliver value for money. This can be achieved by developing supplier and customer relationships that consider whole life cost and by ensuring appropriate competition.
- 1.5. Procurement performance at the Trust is reported monthly to the Director of Finance. It recognises and endorses the key recommendations of the Best Practice Guidelines published and updated by the Department of Health and NHS Improvement, including the NHS Procurement and Commercial Standards.
- 1.6. This policy sets out the principles that ensure the Trust provides an effective procurement process, good stewardship and value for money.
- 1.7. The role of the Procurement Department can be defined as follows:
 - To lead and operate a best practice supply management service, that adds value to the provision of healthcare for patients and to the educational experience of students by delivering value for money.
 - To deliver procurement services that are efficient, innovative, cost effective and continually developing for the overall benefit of the Trust, its patients and its students.
- 1.8. **This policy should be read in conjunction with the Trust's Standing Financial Instructions.**

2 Purpose

- 2.1 There are four main objectives for procurement within the Trust:
- To provide end users with what they need, when they need it and at the best value for money.
 - To protect the Trust and minimise risk through means of appropriate managerial and contractual arrangements.
 - To provide the tax payer with value for money through expenditure on procurement.
 - To support the Trust's core objective of providing excellent health care and education and training.
- 2.2 The department's activities are also influenced by:
- EU and UK Law
 - Public Sector and Department of Health Policy and Guidance
 - Other Trust Policy and Procedures

3 Scope

- 3.1 The European Union (EU) Procurement Directives, and the Public Contracts Regulations 2015 as amended ("Regulations") that implement them in the UK, set out the law on public procurement. Their purpose is to open up the public procurement market and to ensure the free movement of goods and services within the EU.
- 3.2 The rules apply to purchases by public bodies which are above set monetary thresholds. They cover all EU Member States and, because of international agreements, their benefits extend to a number of other countries worldwide. Where the Regulations apply, contracts must be advertised in the Official Journal of the EU (OJEU) and there are other detailed rules that must be followed. The purchase of all goods and services are subject to the EU regulations, regardless of whether they are capital or revenue funded. The Regulations also specify thresholds over which the full OJEU must be applied.
- 3.3 Details of current EU contract thresholds can be found on the intranet.
- 3.4 It should be noted that the UK sterling thresholds are revised every two years, in line with fluctuations in exchange rates, with the next due in January 2019.
- 3.5 More details can be found here:
<https://www.gov.uk/government/publications/procurement-guide-for-commissioners-of-nhs-funded-services>
- 3.6 The Trust has a legal requirement to adhere to these regulations.

4 Duties and responsibilities

4.1 Specific roles and responsibilities are noted below.

Director of Finance

4.2 The Director of Finance has overall responsibility for ensuring good procurement practice throughout the Trust.

Procurement Function

4.3 It is the responsibility of the Procurement function to develop procedures to cover all the Trust's non-pay expenditure that encompass the requirements of Standing Financial Instructions, Standing Orders, EU Procurement Directives and all specific NHS/DoH Policies.

Trust Managers

4.4 Trust Managers have a key role in ensuring good procurement practice and therefore are expected to be conversant with Standing Financial Instructions and Standing Orders.

Other Staff

4.5 All staff involved in procurement must comply with Standing Financial Instructions, Standing Orders, EU Procurement Directives, and follow relevant Trust procedures.

4.6 There is a general duty on all public sector procurers to apply the key principles of public procurement. These require the delivery of value for money (VFM), appropriate quality and service to meet business needs, and appropriate governance (i.e., adherence to HM Treasury rules concerning the use of public money in procurement).

4.7 It is the responsibility of all managers and staff involved with procurement to understand the above and strive for best value.

Ordering Probity

4.8 The placing of a purchase order with suppliers prior to receipt of goods and invoice is good business practice. Standing Financial Instructions state that **an official purchase order must be placed in advance of receipt of any goods.**

4.9 A purchase order is a legally binding contract between the buyer and seller. It is important for both parties to understand which terms and conditions of contract they are working on. The Trust asks that all orders are placed using one of the following contracts:

- Framework contract conditions
- Standard NHS Terms and Conditions
- JCT/NEC standard contract (works only).

4.10 On rare occasions the Trust may need to sign into supplier Terms. If this is the case they will need to be agreed by the Director of Finance before signature.

Trust Procedures and Standing Financial Instructions

- 4.11 The Trust operates a No PO No Pay procedure. This means for all procurements an order must be raised in advance via SBS without exception
- 4.12 Invoices for items/services without a valid purchase order number may be returned to suppliers or become the personal liability of the person who placed the order.

5 Procedures

5.1 The Trust shall endeavour that all procurement activity is conducted in line with the professional and ethical guidance provided by the Chartered Institute of Purchasing and Supply. Regardless, Public Procurement Regulations will also be adhered to, as will Trust Standing Orders and Standing Financial Instructions.

Acquiring Goods And Services

- 5.2 In order to ensure best value for money it is essential that competitive quotations or tenders are obtained. This is the case whether an Item is to go onto the Trust catalogue or not. In determining the number of quotes or tenders to obtain consideration should be given to the likely volume of the goods or services to be required in the year ahead and subsequent years.
- 5.3 The following are the quotation and tender requirements based on total life time costs (i.e. goods + x years maintenance) or total value over contract period, excluding VAT:

Value	Route To Market	Procurement Lead
Over OJEU limit	OJEU required	Procurement
£60,000 – to OJEU limit	Formal Tender	Procurement
£10,000 – 60,000	At least three written quotes	Department / Procurement
> £9,999	Up to three written quotes	Department
< £500	P-Card	Department

NB. As the OJEU limit varies from time to time, any contract with a value of £150k (for goods and services) should be considered as needing to be compliant with OJEU.

5.4 If a framework (see below) can be used for a contract, then this is always the preferred route to market, and negates the need for some of the tendering processes.

Framework Agreements

- 5.5 Prior to undertaking any competition, a review of goods or services available through National and Regional Contracts / Framework Agreements should be performed. A Framework Agreement is a centrally pre-tendered list of suppliers who are available for the Trust to contract with - without the need to follow a more strenuous tendering procedure (e.g. OJEU.) The Framework itself is not a contract but the 'call off' from the Framework is a contract. Frameworks can be used for services, supplies and works.

NHS Supply Chain

- 5.6 Where appropriate, evaluation of the range of items held on the NHS Supply Chain catalogue should also be undertaken. Benchmarking price, quality and service of proposed purchases with other trusts can also prove valuable and is supported by the Procurement Department.
- 5.7 Through using the Procurement Department's contacts in other trusts, there may be an opportunity for both formal and informal collaboration. For some products and services, combining demand can improve the commercial outcome and ensure better value for the Trust.

Tendering

- 5.8 Once it is established that specific goods or services cannot be sourced through the above mentioned routes, the Trust should seek to obtain best value for money through competition.
- 5.9 This procedure is conducted in line with the Procurement Strategy, the Trust Procurement Policy and the Trust Standing Financial Instructions/Standing Orders. The Procurement Department will be happy to lead tendering exercises and, in line with the DoH eProcurement Strategy, utilise online tendering portals.
- 5.10 Each tender must have a clear specification or scope and a strong scoring system agreed prior to the issue of documentation. The most economically advantageous tender (MEAT) will be awarded the contract, provided that the total amount falls within the agreed budget. This scoring mechanism will be the basis for all debriefs to unsuccessful bidders. Guidance will be given by the Procurement Department in constructing the evaluation criteria, examples of which can be found in the Appendix to this Policy.
- 5.11 All purchases/contracts which exceed the relevant European financial thresholds (except those where appropriate National Contracts are in place), will be advertised in the Official Journal of the European Union (OJEU), through the Procurement Department.
- 5.12 Failure to comply with Trust rules could result in disciplinary action.
- 5.13 Failure to comply with EU procurement could result in:
- The High Court setting aside a contract
 - High Court claims for damages from companies denied the ability to participate in competitive tenders

- 5.14 Infringement proceedings in the European Court of Justice
For purchases which fall below the OJEU threshold, potential alternative sources can be found through placing an electronic notice through the Procurement department on to the Government Opportunities website.

6 Benchmarking

- 6.1 The Trust will share information and best practice with other parts of the Health Service and Public Sector to measure the cost and effectiveness of its procurement processes.
- 6.2 Benchmarking is an important part of the procurement process and the transparency and sharing of pricing information is supported in the NHS Terms and Conditions of Supply. There is an online portal which has been set up for NHS procurement staff to share innovation and pricing details.

7 Collaboration

- 7.1 The Trust will work with other NHS or Public Sector partners where appropriate to investigate the use of joint or consortium contracts when cost or service benefits can be identified.

8 Retention Of Documents

- 8.1 All documentation will be kept either electronically or on file in accordance with the NHS recommendations in HSC1999/053. Documents will be retained electronically via the Trust's IT infrastructure in the Procurement Drive.

9 Training Requirements

- 9.1 All staff involved with any procurement processes must be fully conversant with this policy, and all related policies and procedures.
- 9.2 All staff with any budgetary responsibility must be trained on procurement procedures in the Trust at induction.
- 9.3 All staff who requisition orders on behalf of the Trust are also recommended to do the online training.

10 Process for monitoring compliance with this Procedure

- 10.1 The Director of Finance is ultimately responsible for monitoring compliance with this Policy.
- 10.2 A Trust Procurement Risk Register will be held centrally and updated regularly.

11 References

NHS Procurement and Commercial Standards

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/539626/Standards_of_Procurement.pdf

NHS eProcurement Strategy

<https://www.gov.uk/government/publications/nhs-e-procurement-strategy>

12 Associated documents¹

Procurement Strategy
Trust Standing Orders
Trust Standing Financial Instructions
Trust Scheme of Delegation

¹ For the current version of Trust procedures, please refer to the intranet.

Appendix A : Equality Impact Assessment

Completed by	Verity White
Position	Procurement Consultant
Date	July 2018

The following questions determine whether analysis is needed	Yes	No
Is it likely to affect people with particular protected characteristics differently?		X
Is it a major policy, significantly affecting how Trust services are delivered?		X
Will the policy have a significant effect on how partner organisations operate in terms of equality?		X
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?		X
Does the policy relate to an area with known inequalities?		X
Does the policy relate to any equality objectives that have been set by the Trust?		X
Other?		X

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the following analysis:

	Yes	No	Comment
Do policy outcomes and service take-up differ between people with different protected characteristics?			
What are the key findings of any engagement you have undertaken?			
If there is a greater effect on one group, is that consistent with the policy aims?			
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?			
Will the policy deliver practical benefits for certain groups?			
Does the policy miss opportunities to advance equality of opportunity and foster good relations?			
Do other policies need to change to enable this policy to be effective?			

If one or more answers are yes, then the policy may be unlawful under the Equality Act 2010 – seek advice from Human Resources.