

Finance & Performance Scrutiny Panel Meeting 16.1.2024

Procurement legislative changes

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Agenda

- An overview of public sector procurement reform – NHS Provider Selection Regime & the Procurement Act 2023 :
 - Key changes
 - Implications & impacts
 - Risks & Opportunities
 - Transition Planning
 - Local planning & implementation
- Q&A

NHS Provider Selection Regime



Introduction

Provider Selection Regime (PSR) is:

- A new procurement regime introduced by the Health and Care Act 2022 which is to be used in selecting providers of health care services in England from **1 January 2024**

Why?

- To simplify procurement of healthcare services (which are in scope)
- Aims to encourage capability for integration, greater collaboration across the system and move the procurement of health care services away from the expectation of tendering in all cases
- Competitive tendering still available, and required in some circumstances
- Reduce bureaucracy and associated cost

Scope

In scope:

- Services that provide treatment, diagnosis or prevention of physical or mental health conditions
- **Substance use treatment services, Sexual and Reproductive Health, and Health Visitors** arranged by Local Authorities
- An example for Enfield is the existing arrangement with North Middlesex University Hospital for its Reproductive and Sexual Health Community Services

Out of scope:

- Goods (i.e., medicines, medical equipment)
- **Social care services**
- Non-health care services or health-adjacent services that do not provide health care to an individual, e.g. capital works, catering, business consultancy

PSR Selection Processes

PSR allows 3 processes to appoint providers:

1. Direct award processes - divided into A, B & C

- **A** = is the only capable provider
- **B** = people have choices and number of providers not restricted by the relevant authority
- **C** = where the existing provider is satisfactory / likely to be satisfactory plus no considerable change in the contract

2. Most suitable provider process - award without competition based on key criteria judgements

3. Competitive process - where the above do not work for the relevant authority or wish to run a competitive exercise

Next steps – considerations and implications

- Senior Management Briefings
- Define Roles and Responsibilities
 - Service Area
 - Procurement Services
 - Legal Services
 - Finance
- Capability and Capacity
- Governance, Local Rules, Processes and Systems
- Compliance

The Procurement Act 2023

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PA23 – Timetable

Milestone	Date
Royal Assent received	October 2024 – achieved
Knowledge drops launched	December 2024 – achieved
Dedicated service desk available	December 2023 / January 2024 – expected
Policy guidance available	From February 2024 – expected
Secondary legislation laid in Parliament	March 2024 – expected
E-learning modules launched	April 2024 – expected
Official implementation period commences	April 2024 – expected
Deep-dive L&D launched	May 2024 – expected
Central platform phase 1 go-live	Autumn 2024 – expected
Go-live for new regime	October 2024 - expected

Key Changes

- Simpler more flexible procedures which support creativity and innovation
- Reduced red tape associated with public procurement, signalling a significant decrease in the number of regs from PCR2015
- Greater transparency
 - Heightened emphasis on achieving VFM, with more stringent measurements & reporting
 - CAs mandated to publish procurement data throughout the contract lifecycle
- Clear focus on driving wider social, environmental and other strategic priority benefits as well as considering the impact of procurement on SMEs, VCS
 - Driving a greater emphasis on early market engagement
- Procurement Review Unit

Implications & Impacts

THEME	IMPLICATION	IMPACT
Compliance	<ul style="list-style-type: none"> Review and amend all current procurement policy, guidance and governance in response to transparency obligations and debarment rules ; procurement tender templates review and rewrite. 	<ul style="list-style-type: none"> Expanded publication regime will be a significant workload New requirements to estimate pipeline spend where this is over £100M, including Direct Awards Shift to Most Advantageous Tender as award criteria vs Council's budget challenge Compliance with LBE governance & Key Decision timescales
Systems	<ul style="list-style-type: none"> The Council's e-tendering portal must be compliant with new data and transparency requirements. 	<ul style="list-style-type: none"> Ability and range of current system to ensure compliance and provide reporting functionality. Current supplier is engaged with the Government's online platform development function to ensure system interfaces and is compliant
People	<ul style="list-style-type: none"> Capacity and capability of procurement and legal practitioners, non-skilled staff that self-serve below threshold procurements and external organisations commissioned to carry out procurement exercises on behalf of the Council Training for suppliers on new processes and procedures 	<ul style="list-style-type: none"> Ability to maintain business as usual and delivery of priority projects whilst transforming to the new regime. Extensive programme of learning and development must be undertaken across the Council by all affected staff Programme of supplier engagement on the new requirements.
Contract Management	<ul style="list-style-type: none"> Requirement to publish Key Performance Indicators, change notices (variation / modification), annual performance reports for all contracts over £5M whole life value and any contract terminations. Details of any of all contract variations (bar de minimis) will be reported in the public domain and susceptible to challenge 	<ul style="list-style-type: none"> All new procurements / contracts should have dedicated contract management resource from the service departments All new affected contracts must align with reporting obligations around it All new affected contracts must be redacted as appropriate and published



Risks

- Increased focus on transparency
 - Resource implications on meeting requirements
 - Increasing requirement on publication of pipelines, notices and contract information & performance
 - Greater scrutiny on public procurement from suppliers, residents & other 3rd parties
- Publication of supplier performance may influence the market – pricing for risk, more disputes, distraction from core services or even making the buyer less attractive
- Procurement professionals not making the most of this opportunity !

Opportunities

- To turn the dial from transactional to commercial procurement
 - Competitive flexible procedure will drive creativity, engagement & negotiations
 - A move away from a 'race to the bottom' approach to pricing
 - An opportunity to add real value
- Levelling up of skills for procurement professionals
- A focus on forward planning
 - £18M view of the procurement pipeline
 - Integration of procurement in the budget-setting process
 - Benchmarking and market engagement
- Creating a view of Enfield as a 'Buyer of Choice'
 - Being an organisation that suppliers want to work with
- A huge open door for SMEs & local suppliers through dynamic markets, agile processes & negotiations

Planning for Reform

- The changes are wider than **JUST** procurement – this is organisational change
- We need support from other colleagues
 - all staff whose work touches on procurement – legal, finance, contract managers, service commissioners & reporting teams
- We need Members, EMT and Boards to be aware, engaged and supportive of change
- Collaboration with local public sector partners
 - Share resources, knowledge & best practice
 - Link into our local Community of Practice
- Access the knowledge drops & wider Cabinet Office L&D offer

Transition Planning

- Core project planning and delivery group established
- Review contracts register
- Prepare Procurement pipeline / Annual Procurement Plan
- Policy / Procedural Review
- Systems Review
- Team Resource & Skills Assessment
- Prepare for Transparency – systems, processes and resources

Q&A / Close