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## PROCUREMENT POLICY

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## SUMMARY OF POLICY

This document's purpose is to guide and direct all Solent NHS Trust staff on the processes for procuring goods and services throughout the organisation. This applies to all revenue, capital or charitable funds expenditure.

This policy is required by the Trust to highlight the many factors that have to be taken into consideration when procuring goods and services. It highlights the associated risk whilst ensuring that procurements deliver quality products and service outcomes. **It is not intended to be a guide for staff to run their own complex procurements but is an overview.**

All procurements must conform to the Public Contract Regulations and Trust Standing Financial Instructions supporting the principles of equal treatment and fairness. Solent NHS Trust is committed to ensuring that it excels at the NHS Standards of Procurement and it can demonstrate its ability against the core metrics contained within the NHS dashboard.

All public sector organisations are publicly accountable for the money they spend on behalf of the country's taxpayers and therefore purchasing activity within Solent NHS Trust must adhere to the following;

- UK and EU law
- Trust Standing Financial Instructions
- Health and Safety Executive Directives (including Fire regulations)
- Department of Health and Social Care and Government Directives and Guidance
- Infection Control Policies and Guidance
- Medical Devices Directives
- Data Protection Compliance Policy
- Bribery Act 2010
- IR35 Intermediaries Legislation (Finance Bill 2017)

This list is not exhaustive and consideration must be given to all areas when committing expenditure and the following rules need always to be remembered;

- Caveat Emptor – buyer beware
- Ignorance is no defence

Therefore, for avoidance of doubt always speak to the Commercial Team.

All purchases must be raised via the iProc ordering system which provides a Purchase Order for each approved requisition. Allowable exempt areas to this are listed at Appendix B.

Solent NHS Trust is committed to the principles of transparency, sustainability and positively encourages trade with small and medium enterprises (SMEs) and the third sector. The Trust through its processes seeks to work with partners that support equality and diversity, are ethical and abide by the Bribery Act 2010.

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## PROCUREMENT POLICY

### 1 INTRODUCTION & PURPOSE

- 1.1 This policy sets out the rules for procurement and the processes involved, however staff are advised to discuss any individual procurement requirements directly with the Commercial Team, prior to any commencement or discussions / meetings with potential suppliers, in line with the Representatives Policy and before completing any tender documentation.
- 1.2 It is recognised that there is a clear link between the delivery of high-quality patient care and the efficient and effective procurement and supply of goods and services.
- 1.3 This policy is required by the Trust to highlight the many factors that have to be taken into consideration when procuring goods and services. It highlights the associated risks whilst ensuring that procurements deliver quality products and service outcomes in line with Trust, corporate and service line business plans.
- 1.4 This policy demonstrates that Solent NHS Trust is committed to meeting the NHS Standards of Procurement.
- 1.5 This policy sets out how and when to procure goods and services whilst:
- Ensuring delivery of the appropriate clinical support services
  - Ensuring best value for money without compromising patient experience or quality
  - Demonstrating a commitment to sustainable procurement, environmental implications and social value.
- 1.6 It is essential that all procurements abide by the principles of transparency, fairness and sustainability and the Trust positively encourages trade with small and medium enterprises (SMEs) and the third sector. The Trust, through its processes, seeks to work with partners that support equality and diversity, are ethical and abide by the relevant legislation.
- 1.7 All public sector organisations are publicly accountable for the money they spend on behalf of taxpayers and therefore all purchasing activity within the Trust must adhere to the following:
- UK and EU law
  - Trust Standing Financial Instructions
  - Health and Safety Executive Directives (including Fire regulations)
  - Department of Health and Social Care and Government Directives and Guidance
  - Infection Control Policies and Guidance
  - Medical Devices Directives
  - Data Protection Compliance Policy
  - Bribery Act 2010
  - IR35 Intermediaries Legislation (Finance Bill 2017)
- 1.8 Staff should use this policy when making decisions as to how to procure high and low value goods and services, in order to avoid placing the organisation at risk from challenge, which could be under the EU Remedies Directive or reputational or other risk factors such as delays or clinical risk. This document reflects current legislation, guidance from DHSC and Trust SFIs.
- 1.9 The Commercial Team will help colleagues find a procurement solution to compliantly purchase the relevant goods or services and this will not always mean a quotation, mini competition or tender process.
- 1.10 All stages of each procurement must be clearly documented to ensure transparency of decisions made and must be able to withstand scrutiny from internal and external audit, as a challenge can be launched by any unsuccessful Bidder/s if they believe the process has not been followed or is flawed.
- 1.11 Procurement processes will require an investment of time from the services involved and

also the corporate support roles as necessary. The commitment required may involve: time to complete a detailed specification of requirements; input into the evaluation criteria used to determine selection of suppliers, including financial and quality analysis; and a number of meetings, including evaluation meetings and final process sign off.

- 1.12 Solent NHS Trust actively seeks to work collaboratively with other public sector and NHS organisations to increase buying leverage, in order to secure volume discounts, savings and continuity and consistency of patient experience across the whole health economy.
- 1.13 For avoidance of doubt always speak to the Commercial Team.

## 2 SCOPE & DEFINITIONS

- 2.1 This policy applies to locum, permanent, and fixed term contract employees (including apprentices) who hold a contract of employment or engagement with the Trust, and secondees (including students), volunteers (including Associate Hospital Managers), bank staff, Non-Executive Directors and those undertaking research working within Solent NHS Trust, in line with Solent NHS Trust's Equality, Diversity and Human Rights Policy. It also applies to external contractors, agency workers, and other workers who are assigned to Solent NHS Trust. This document is also recommended to Independent Contractors as good practice. Where staff undertake procedures on behalf of other healthcare providers, they must follow that particular organisation's policies and procedures.
- 2.2 The policy has been compiled to provide guidance to Directors, Trust leadership and management team and employees on the processes for procuring goods and services throughout the organisation.
- 2.3 As per the Trust's Standing Financial Instructions, formal Competitive Quotations are required when the intended total expenditure exceeds, or is reasonably expected to exceed, £5k but not exceed £49,999. Formal Competitive Tendering procedures are required where the intended total expenditure exceeds, or is reasonably expected to exceed, £50,000.
- 2.4 As per the requirements set out in the Regulations, Solent NHS Trust uses a number of e-procurement tools to facilitate the procurement of goods and services.
- 2.5 The Bravo Solutions e-tendering portal is used for the publication and management of all strategic competitive procurements (Quotations and Tenders) and contracts over £5,000. The Bravo portal links in with EU tendering opportunity websites as well as the Government Contracts Finder website.
- 2.6 For all frequently purchased items, iproc is used. This holds on-line supplier catalogues and generates a Purchase Order (PO). Staff who require access to the iproc system will be determined by the Service Line Managers within the Directorates. Access rights will be provided by the Finance Team.
- 2.7 Solent NHS Trust is committed to the principles of Equality and Diversity and will strive to eliminate unlawful discrimination in all its forms, demonstrating fairness and Equal Opportunities for users of services, carers, the wider community and staff.
- 2.8 A table of Procurement Definitions is appended to this policy as Appendix C.

## 3 PROCESS/REQUIREMENTS

### 3.1 PROCUREMENT

- 3.1.1. Procurement is the acquisition of goods, services or works from an outside external source. It is favourable that the goods, services or works are appropriate and that they are procured at the best possible cost to meet the needs of the purchaser in terms of quality and quantity, time and location.
- 3.1.2. Public bodies' defined procurement processes intend to promote open and transparent competition while minimizing exposure to fraud and collusion. Public sector procurement

is carefully regulated and audited to ensure taxpayers' money is spent responsibly, ensuring best value.

- 3.1.3. Procurement is more than just purchasing. The procurement process covers a full lifecycle of activities starting with the identification of needs, through to evaluation, purchasing and contract management.
- 3.1.4. Procurement can range from the day to day procurement of commodities to purchasing key strategic items (such as large capital assets), commissioning a service, or buying an entire service. Goods and services can be provided by NHS and public sector providers or by external suppliers.
- 3.1.5. Managers across the business need to understand how procurement can help them to do their jobs effectively in a flexible and responsive manner, ensuring that all decisions are auditable, patient focussed, fair, transparent and can be justified.
- 3.1.6. Procurement will, via this Procurement Policy, ensure that the Trust obtains value for money without compromising on safety and equality. It will raise the awareness of procurement best practice and all processes will be proportionate to the value of the contract, non-discriminatory and not overly bureaucratic. Processes are in place to ensure that competition is fair and any disputes can be managed appropriately.
- 3.1.7. Procurement is the driver to:
  - a. Support improved service delivery and quality of provision
  - b. Improve efficiencies in purchasing and market testing
  - c. Provide contract management post tender delivery
  - d. Promote new service delivery models
  - e. Provide focus on activity and outcomes delivery, changing the remuneration models for providers
  - f. Raise supplier performance and thereby quality received by the Trust
  - g. Ensure specifications are simplified and services not over detailed to reduce cost
- 3.1.8 All contact details can be found on the Commercial and Procurement page on SolNet (the Trust's intranet).

## **3.2 WHAT GOVERNS PROCUREMENT?**

- 3.2.1 All NHS and Public Sector Procurement is bound and influenced by UK and EU Law, Public sector and Department of Health and Social Care (DHSC) guidelines, Acts & policies and Trust internal Standing Financial Instructions.
- 3.2.2 UK and EU Law – As a member of the European Union, the UK is subject to Directives specifically aimed at procurement. These set out principles which encourage openness, equal treatment and market competition. For high-value purchases (over the EU OJEU threshold), the Directives mandate a number of procurement processes that must be followed.
- 3.2.3 Government Policy and Parliamentary Acts – These can often have a significant impact on Procurement. For example, The Bribery Act (2010) introduces the offence of Commercial Corruption (which includes corrupt gifts given by suppliers to influence purchasers), which once again aims to prevent taxpayers' money being misspent. Sustainability and Environmental considerations have been on the agenda for some time, which means that Procurement must take account of transport, utilities and waste (Carbon Footprint), as well as Social Value aspects such as including Small and Medium Enterprises (SMEs) in the purchase processes.
- 3.2.4 Department of Health and Social Care Best Practice Guidance – 'Raising Our Game' - Describes the actions that DHSC and Trusts should take to improve NHS procurement. "The NHS has faced increasing demands: a growing population with an extending lifespan; an increase in its own capability, fuelled by advances in knowledge, science and technology; and ever-increasing expectations from the public it serves. The NHS has responded to these demands in part through the creativity of its staff to find or devise new tools and better

ways of working. At the same time industry, often working in partnership with the NHS has made available a constant supply of new medicines, devices and technology. Now and for the foreseeable future, we must meet these demands from within our current real terms funding, whilst at the same time improving quality. This means we cannot afford to continue as we have always done. If that is going to happen we will need better, smarter and more efficient procurement.”

- 3.2.5 The quote above is the challenge that has been set and needs to be taken up by all NHS Trusts. Solent NHS Trust has taken steps to implement the required changes by ensuring collaboration where possible, working closely with and use of NHS Supply Chain contracts and National Frameworks, working with NHS Commercial Alliance and use of their framework contracts, sharing data so that we can see the prices that other NHS organisations are paying for the same goods and services.
- 3.2.6 Better Procurement, Better Value, and Better Care: A Procurement Development Programme for the NHS - is the DHSC’s new Strategy for NHS Procurement. The new strategy is part of a wider government drive to save taxpayers’ money by being more efficient and make every taxpayer pound count. With the publication in February 2016 of Operational Productivity and Performance in English NHS Acute Hospitals: Unwarranted Variations (An independent report for the Department of Health by Lord Carter of Coles), 2016 work has been refocused to look at the variation of costs between organisations and how it is key to optimise resources.
- 3.2.7 Trust Standing Financial Instructions (SFIs) – These Instructions detail the financial responsibilities, policies and procedures adopted by Solent NHS Trust. They are designed to ensure that the Trust’s financial transactions are carried out in accordance with the law and Government policy. The SFIs apply to everyone working for the Trust and its constituent organisations. Failure to comply with the Trust’s SFIs is a disciplinary matter and can result in dismissal.
- 3.2.8 The Trust SFIs can be found on the Trust’s intranet page by searching for Standing Financial Instructions, using the search bar on the home page. The detailed scheme of delegation, showing roles and responsibility and financial levels, can also be accessed here.
- 3.2.9 Internal and External Audit – Auditors are usually employed to test the robustness of financial and procurement processes. These tests are designed to ensure that procedures are in line with legal and regulatory requirements, and critically that they have been followed.

### **3.3 SEGREGATION/SEPARATION OF DUTIES**

- 3.3.1 Public sector procurement must be conducted without favour or prejudice. Assurance can be brought to the procurement process through appropriate separation of duties, ensuring there are clear divisions between budgetary authority and procurement authority within Solent NHS Trust. In simple terms, a budget holder can approve a requisition but cannot approve a purchase order. These separations of duties aim to safeguard against impropriety and thereby ensuring achievement of maximum savings and fairness.

### **3.4 CORPORATE SOCIAL RESPONSIBILITY**

- 3.4.1 The Trust promotes a corporately responsible approach to procurement which considers, where feasible, supporting local businesses.



- 3.4.2 Wherever possible, the Trust aims to ensure that the requirements of the Social Value Act are considered in all aspects of procurements, particularly how we can factor that in to the evaluation process and assess the social return, in addition to financial considerations.
- 3.4.3 Procurement has an opportunity to make a significant contribution towards corporate social responsibility and as with sustainable development (section 3.5) by including and embedding in processes, wherever it is sensible and legitimate to do so, these objectives within the overall assessment of value for money and affordability in its procurement activity.

### **3.5 SUSTAINABLE PROCUREMENT**

- 3.5.1 Sustainable procurement involves taking environmental and social considerations, such as the Social Value Act 2010, into account alongside financial factors when deciding which product or service to buy. It also involves looking at the costs over the whole life, considering running costs, product lifespan and disposal as well as the acquisition costs.
- 3.5.2 Addressing sustainable development in the Trust's commercial activity is consistent with best commercial practice, given that economic sustainability is reliant upon environmental and social sustainability.
- 3.5.3 Solent NHS Trust, as a public sector body, has a duty to take a leading role in promoting and embedding sustainable procurement.
- 3.5.4 The inclusion of sustainability within this procurement policy addresses sustainability within procurement activity but also ensures the Trust contributes to helping the wider public sector meet its targets.
- 3.5.5 All procurements should include sustainability requirements to ensure the Trust is contributing to the various environmental targets set by the Government.
- 3.5.6 The key sustainable objectives are to:
  - a) Ensure that sustainable procurement principles are considered in commercial decisions based on whole life costs including value for money, resulting in a reduced impact, and ideally a positive impact
  - b) Ensure that procurements follow sustainable best practice
  - c) Ensure that procurement of electrical equipment will be selected considering life cycle costing analysis

### **3.6 Green Public Procurement (GPP)**

- 3.6.1 Contracting authorities take environmental issues into account when tendering for goods or services. The goal is to reduce the impact of the procurement on human health and the environment. – the Trust defines sustainability as ***meeting the needs of the present, without compromising the ability of future generations to meet their own needs*** and it is this ethos that the trust works to.

### **3.7 Climate Change Act (CCA)**

- 3.7.1 The Climate Change Act (2008) was introduced to ensure the UK cuts its carbon emissions by 80% by 2050. The 80% target is set against a 1990 baseline.
- 3.7.2 The act enables the UK to become a low carbon economy. It sets in place a legally binding framework allowing the government to introduce measures which will achieve carbon reduction and mitigate and adapt to climate change.
- 3.7.3 As the largest public sector emitter of carbon emissions, the health system has a duty to respond to meet these targets which are entrenched in law. Contributing to the Climate Change Act target with a 34% reduction in carbon emissions by 2020 is a key measure of our ambition across the country. The NHS exceeded its target to reduce its carbon footprint by 2015, achieving an 11% reduction. Reduced environmental impact will be measured against the target of 34% reduction in CO<sub>2</sub>e emissions by 2020 and be well placed to meet the 50% target by 2025.

### **3.8 PROCUREMENT FRAUD**

- 3.8.1 Procurement fraud can be defined as dishonestly obtaining an advantage, avoiding an obligation or causing a loss to public property or various means during procurement process by any person involved in the procurement. Staff need to be vigilant and take responsibility for what they are requisitioning and if concerned about any aspect should contact the Commercial Team or the counter fraud contact.
- 3.8.2 Frauds in procurement include:
- a. Collusion among bidders to reduce competition.
  - b. Providing bidders with advance "inside" information.
  - c. Submission of false or inflated invoices for services and products that are not delivered or work that is never done.
  - d. "Shadow vendors", shell companies that are set up and used for billing, may be used in such schemes.
  - e. Intentional substitution of substandard materials without the customer's agreement.
  - f. Use of "sole source" contracts without proper justification.
  - g. Use of prequalification standards in specifications to unnecessarily exclude otherwise qualified contractors.
  - h. Dividing requirements to qualify for small-purchase procedures to avoid scrutiny for contract review procedures of larger purchases. (Splitting a procurement into 2 processes to reduce the spend threshold and avoid the required tender process and the timescales involved).
- 3.8.3 Employees are required to comply with the Trust's policies, procedures and processes and apply best practice in order to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be made aware of their own responsibilities in accordance with the organisation's standards of behaviour and in protecting the organisation from these crimes. Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities. If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the LCFS and/or to NHSCFA.
- 3.8.4 All staff that have access to procurement expenditure, including budget holders, financial accountants and commercial staff, are DBS checked on a regular basis (every three years).
- 3.8.5 Solent NHS Trust uses an e-procurement system so that all stages of the procurement process are transparent and auditable. The system controls interaction with potential suppliers, especially during negotiations. This limits the opportunities for bias and corruption to emerge.

### **3.9 TRANSPARENCY**

- 3.9.1 The Department of Health and Social Care (DHSC) has provided a guidance document (Procurement Transparency Guidance) to all NHS Trusts on the actions to be taken to increase openness and clarity about NHS procurement. The actions focus on:
- opening up public procurement
  - being transparent about expenditure
  - sharing expenditure data
- 3.9.2 These measures will increase competition, encourage growth and greater innovation, leading to better value for money from the public purse and will enable the public to hold public bodies to account.
- 3.9.3 All NHS providers will be required to submit procurement transaction data to the national service, with a guiding principle that all data will be placed in the public domain. Further guidance has been issued in the NHS eProcurement strategy, setting out the specific data requirements.
- 3.9.4 All NHS Organisations must refrain from entering into any non-disclosure or confidentiality agreements with any supplier that may have the effect of restricting the sharing of

procurement expenditure data, including prices, with the national Spend Analysis and Price Benchmarking service.

3.9.5 All contracts, irrespective of value, must be published on the Government's Contracts Finder website, enabling the public to see where the Trust spends its money.

**3.10 SUPPLIER ENGAGEMENT**

3.10.1 Engagement with suppliers should be managed carefully particularly during any tender process, but also prior to any process starting.

3.10.2 All representative appointments should be by prior engagement with the service and the Commercial Team MUST be notified prior to any negotiation or agreement, in order to ensure the Trust is compliant with Procurement/Competition Law. It is a breach of the SFIs and potentially unlawful to sign up to any agreement with any supplier without a compliant process being undertaken.

3.10.3 A rep includes anyone trying to sell you any product/service, including temporary staff.

3.10.4 Any persistent cold calling by reps either in person or by telephone/other must be redirected to the Commercial Team.

**3.11 SMALL TO MEDIUM SIZED ENTERPRISE (SMEs)**

3.11.1 The Trust is committed to working with SMEs and recognises the value that they can bring to the organisation.

3.11.2 The Trust will consider in its strategy for each project how it can make sure that opportunities are accessible for SMEs, without any barrier to competition.

3.11.3 The Trust is mindful of its obligations under the Public Contracts Regulations 2015, which includes dividing procurements into lots, prompt payment, abolition of pre-qualification questionnaire etc.

**3.12 CONFLICT OF INTEREST**

3.12.1 If any Solent NHS Trust member of staff or any person working on behalf of Solent NHS Trust has any involvement or connection with any supplier taking part in a procurement process, they must declare this personal interest as a Conflict of Interest prior to the process starting or as soon as they become aware. It is preferable if this person then has no involvement in the process to protect the organisation from potential legal challenge at the end of the process. This also applies to small value purchases which are not subject to formal competition.

3.12.2 During all stages of a tender process, all evaluating members of staff are asked to sign a conflict of interest form. If a conflict is declared that causes procurement concern, then the panel member will be asked to stand down from the evaluation panel.

3.12.3 Attention is drawn to the Trust's Conflicts of Interest Policy.

**3.13 BUSINESS CONTINUITY**

3.13.1 Attention is drawn to the Business Continuity Plan for Commercial which will be activated in the times of business emergency and pandemics.

**3.14 THE COMMERCIAL TEAM**

3.14.1 The Team consists of:

Associate Commercial Director	
Commercial Business Partners	Support Services & Head of Procurement
	Southampton & South West Hampshire (SSWH)

	Countywide
	Portsmouth & South East Hampshire (PSEH)
Category Managers and Commercial Leads	Corporate Services
	IT & Digital
	Estates & Facilities
	Southampton & South West Hampshire (SSWH)
	Countywide
	Portsmouth & South East Hampshire (PSEH)
Commercial Delivery Team	Commercial Projects Manager
	Commercial Projects Manager
	Commercial Procurement Lead
Commercial Support Team	Senior Commercial Coordinator
	Commercial Coordinator
	Commercial Coordinator
	Commercial Administration Apprentice
	Commercial Administrator
Operational Buying Team	Lead Buyer
	Buyer
	Apprentice Buyer

All contact details can be found on the Procurement intranet page:

<http://intranet.solent.nhs.uk/TeamCentre/CommercialProcurement/Pages/Home.aspx>

### 3.14.2 Who's Who

- The Operational Buying Team are often the first contact with the Commercial Team for many members of staff. They advise and train staff on using the purchasing system and process all requisitions, ensuring they are compliant to the Trust's SFIs, sourcing goods where required and obtaining quotes (for spend under £50K) to ensure best value. The buyers request all supplier set ups on the system. (The request is sent to SBS and this usually takes up to 1 week). The Operational Buying Team will work with the Category Manager and Commercial Leads to ensure

compliance with the Trust's SFIs for all Services quotations (for spend between £5k and £50k), where possible using compliant framework/DPSs or contracts.

- The Commercial Team facilitates all commercial activity (non-pay spend), including but not limited to:
  - supporting the delivery of the Trust's Cost Improvement Plans;
  - working with the Operational Buying Team to ensure there are compliant contractual agreements in place;
  - analysing spend data to identifying trends across the organisation and other organisations where contracts and collaboration can provide cash savings;
  - managing the supply chain and keeping up to date with new innovations in the market;
  - bidding, contracting and relationship management;
  - business planning;
  - (de)mobilisation of business; and
  - other project management activity.
- The Commercial Procurement Lead supports all procurements to ensure compliance with the Public Contract Regulations and the Trust's SFIs.

### 3.14.3 Roles & Responsibilities

- **Chief Finance Officer (CFO) and Chief Executive (CE)** are accountable for implementing the Trust's financial policies and maintaining an effective system of financial control and for signing any contracts in line with the Scheme of Delegation.
- **Associate Commercial Director** is responsible for overseeing all commercial and procurement activity.
- **Head of Procurement (HoP)** is responsible for overseeing all procurement policies and procedures, ensuring the Trust's financial policies and EU legislation are adhered to. The HoP represents the Trust's interests when working in collaboration with other organisations locally, regionally and nationally on aligning strategies and priorities.
- **Commercial Business Partners (CBP)** are responsible for all Commercial and Procurement activity within their portfolio and work with the Head of Procurement to ensure compliance with any local, regional and national strategies and priorities.
- **Procurement Lead** is responsible for providing expert procurement advice to the organisation in line with Trust SFIs. They will facilitate any procurement activity and manage the procurement timeline.
- **Category Manager and Commercial Leads (CM&CL)** are responsible for providing the expert supplier and market knowledge within their portfolio and will work with the Procurement Lead to ensure their procurement process is compliant and transparent. The Category Manager and Commercial Leads will create the formal contract and manage it for its duration, advising the Organisation when a new procurement is required.
- **Commercial Delivery Team** are responsible for supporting the delivery of procurement activity through project management, data analytics and market engagement.
- **Commercial Support Team** are responsible for supporting the procurement activities.
- **Senior Buyer** has category responsibilities for NHS Supply Chain and other non-clinical and clinical consumables purchases.
- **Operational Buying Team** are responsible for ensuring all purchase orders have been raised as per the Trust's SFIs.
- **The Finance Team** are responsible for setting up staff and Suppliers on the SBS purchasing system and supporting the Category Managers and Commercial Leads in the financial evaluation of a procurement.

- **Requisitioners / Trust staff** are responsible for ensuring all orders they raise are in line with the Trust’s SFIs via the Iproc system and not via non PO route.
- **Approvers** are responsible for the requisitions they approve, ensuring that all required information is provided, and the requisition is in line with the Trust’s SFIs.

### 3.15 PROCUREMENT PROCESS

3.15.1 There are separate individual procurement process flows for the various spend levels as set out below. These are documented within the Trust Procurement Toolkit. For the purposes of procurement the value is the total contract value.

Spend and Area				
<b>Goods &amp; Services</b>	<b>Goods</b>	<b>Services</b>	<b>Goods &amp; Services</b>	<b>Goods &amp; Services</b>
<b>(£0 - £5k)</b>	<b>(£5 - £50k)</b>	<b>(£5k - £50k)</b>	<b>(£50k – EU Threshold)</b>	<b>(over EU Threshold)</b>

### 3.16 EU THRESHOLD

3.16.1 The thresholds that apply to the procurement directives are revalued every two years. This is to ensure that they remain consistent with the thresholds used for the WTO Government Procurement Agreement (GPA) whose requirements are incorporated into the Directives.

3.16.2 These thresholds are designed to ensure fair competition in Europe and not just locally. The Threshold for Works is much higher than for Goods and Services. For the purposes of procurement the value is the total contract value.

Type of Authority	Type of contract			
	Works	Supplies & services	Light Touch Regime Services	Concessions Works and service
<b>Central government bodies</b>	£4,733,252 (€5,350,000)	£122,976 (€139,000)	£663,540 (€750,000)	£4,733,252 (€5,350,000)
<b>Sub-central authorities</b>	£4,733,252 (€5,350,000)	£189,330 (€214,000)	£663,540 (€750,000)	£4,733,252 (€5,350,000)

3.16.3 When calculating the potential value of a contract, it is important to also include any optional extension periods.

3.16.4 The process of procurement is generally achieved through competitive tendering (also known as bidding) between potential providers. The procurement method used will vary

to be proportionate and effective to the service or goods being purchased and the estimated whole life cost.

3.16.5 If the whole life cost is expected to be around the EU threshold then the procurement process must follow one of the OJEU tender processes as detailed below.

3.16.6 Solent NHS Trust falls into the Central Government Bodies category due to the Trusts' non-Foundation Trust status.

### **3.17 LIGHT TOUCH REGIME**

3.17.1 The light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A).

3.17.2 Contracting authorities have to follow a new light-touch set of procurement rules for LTR contracts above the relevant threshold. The main mandatory requirements are:

- i. OJEU Advertising: The publication of a contract notice (CN) or prior information notice (PIN). Except where the grounds for using the negotiated procedure without a call for competition could have been used, for example where there is only one provider capable of supplying the services required.
- ii. The publication of a contract award notice (CAN) following each individual procurement, or if preferred, group such notices on a quarterly basis.
- iii. Compliance with Treaty principles of transparency and equal treatment.
- iv. Conduct the procurement in conformance with the information provided in the OJEU advert (CN or PIN) regarding: any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
- v. Time limits imposed by authorities on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the LTR rules, so contracting authorities should use their discretion and judgement on a case by case basis.

3.17.3 Authorities have the flexibility to use any process or procedure they choose to run the procurement, as long as it respects the other obligations above. There is no requirement to use the standard EU procurement procedures (open, restricted and so on) that are available for other (non-LTR) contracts. Authorities can use those procedures if helpful, or tailor those procedures according to their own needs, or design their own procedures altogether.

3.17.4 The LTR rules are flexible on the types of award criteria that may be used, but make clear that certain considerations can be taken into account, including (this is not an exhaustive list):

- the need to ensure quality, continuity, accessibility, affordability availability and comprehensiveness of the services;
- the specific needs of different categories of users, including disadvantaged and vulnerable groups;
- the involvement and empowerment of users; and
- innovation.

3.17.5 Reserved contracts for certain services in the light-touch regime. The new rules permit for certain LTR contracts to be "reserved" for organisations meeting certain criteria e.g. public service mutuals and social enterprises.

### **3.18 PROCUREMENT, PATIENT CHOICE, AND COMPETITION (No.2) REGULATIONS 2013**

3.18.1 The procurement of healthcare services is underpinned by two key sets of Regulations for commissioners:

- The Public Contracts Regulations 2015 (PCR 2015); and,

- The National Health Service (Procurement, Patient Choice and Competition) (No2) Regulations 2013 (PPCCR).
- 3.18.2 The PPCC regulations outline the objectives for all healthcare procurement which at a high level is to procure services from the provider which is the “most capable” and whom “provide best value”. Paragraph 2 of the Regulations sets out the objectives for all procurement: “When procuring health care services for the purposes of the NHS, a relevant body must act with a view to: Securing the needs of the people who use the services; Improving the quality of the services; and Improving efficiency in the provision of the services, including through the services being provided in an integrated way.”
- 3.18.3 As well as the objectives for procurement, the PPCC Regulations also set out the requirements regarding procurement. The relevant body must-
- Act in a transparent and proportionate way, and
  - Treat providers equally and in a non-discriminatory way
- 3.18.4 The relevant body must procure the services from one or more providers that-
- are most capable of delivering the objective, and
  - provide best value for money in doing so.

### **3.19 AUTHORISATION TO PROCEED**

- 3.19.1 In all procurement processes over £50,000 a Procurement Initiation Document (PID) must be completed to confirm that they have authority to commit the organisation to the level of estimated expenditure and therefore the procurement can go ahead, this will normally be carried out by the Category Manager and Commercial Lead in conjunction with the Service Lead and this will be countersigned by their Finance Business Partner. The level of detail required in the PID will be dependent on whether it is existing or new business. It is not acceptable to ask Procurement to run a process without having sufficient authority or agreement to do so. Just because goods and services are needed does not mean that funding is available. If a Business Case is required this should be completed first before starting a tender, but the Commercial Team must be made aware of any impending procurements, so that when approval is given, the time and resources to undertake the procurement are made available.
- 3.19.2 Consideration should be given to whether services could be performed in house before going out to the marketplace.

### **3.20 THE PROCUREMENT PROCEDURES**

#### **3.20.1 Quotation**

- 3.20.1.1 This is used when the estimated whole life cost will be between £5,000 and £50,000. All requests for quotations over £5k shall be issued via the e-tendering portal.
- 3.20.1.2 However, even for those below these financial limits ideally 3 quotes should be sought as this is best practice to ensure value for money.
- 3.20.1.3 When the Commercial Team is aware of better pricing or the Trust has contracts for this area of spend, they may switch supplier and alter any requisition received.
- 3.20.1.4 For Service quotations, an Invitation to Quote, including a specification of requirements, is drawn up by the Service, in conjunction with the Category Manager and Commercial Lead and this is sent via the e-tendering portal to a minimum of 3 suppliers to bid against.
- 3.20.1.5 For quotations for Goods, an Invitation to Quote, including a specification of requirements, is drawn up by the Operational Buying Team, this is sent via the e-tendering portal to a minimum of 3 suppliers to bid against.
- 3.20.1.6 Depending on the complexity of the requirements this process can take between 5 -20 days (it may be longer if needs are complex or suppliers are not able to respond in timescales and produce a credible bid or the Trust would not receive many competitive bids).



3.20.1.7 The bids are then evaluated and awarded to the most economically advantageous offer/bid. This may not be the cheapest but the bid that offers best value across all areas i.e. cost, service, quality.

### **3.20.2 Competitive Tender**

3.20.2.1 This is used when the estimated whole life cost will be between £50,000 and the EU Threshold. An Invitation to Tender, including a specification of requirements, is drawn up by the Service, in conjunction with the Category Manager and Commercial Lead and this is advertised publicly via Contracts Finder and published on the e-tendering portal for interested suppliers to bid against.

3.20.2.2 This process should take approximately 30 days (it may be longer if the majority of the suppliers do not feel this is an adequate amount of time for them to submit a bid).

3.20.2.3 The bids are then evaluated and awarded to the most economically advantageous offer/bid. This may not be the cheapest but the bid that offers best value across all areas i.e. cost, service, quality.

### **3.20.3 Framework Agreements**

3.20.3.1 Framework Agreements are fully compliant with the regulations and can be used to purchase certain products and services without the Trust having to undertake a full procurement process, as long as the Trust is a named party to the framework agreement. The original tendering process is undertaken by an approved third party, such as the Crown Commercial Service or the Regional Procurement Hub.

3.20.3.2 The third party conducts a procurement for the framework agreement with a specification for a product or service, which organisations tender against. The framework may be separated into Lots. The successful organisations are added to a list of pre-approved providers of a product or service.

3.20.3.3 Under the framework agreement, public sector bodies can then procure the product or service at the tendered price, under a direct award, as long as their requirement matches the main specification which had been tendered against for the Framework Agreement.

3.20.3.4 Alternatively, the Trust could undertake a mini competition to get a more precise offering from the provider, as long as this option is allowed under the framework. A specification of requirements is drawn up by the Service, in conjunction with the Category Manager and Commercial Lead, and this is sent via the e-tendering portal for the relevant framework suppliers to bid against. The bids are then evaluated and awarded to the most economically advantageous offer/bid. This may not be the cheapest but the bid that offers best value across all areas i.e. cost, service, quality.

3.20.3.5 Using a framework agreement can save time and reduce the cost of introducing and implementing a product or service.

### **3.20.4 OJEU Tender Processes**

3.20.4.1 The following processes are used when the estimated whole life cost will exceed the EU threshold, as set out in Section 3.16.

3.20.4.2 To decide which of the processes outlined below to follow, a full Procurement Initiation Document (PID) will be completed in conjunction with the Commercial Team, which will contain a decision-making process.

3.20.4.3 All procurements with an estimated whole life cost that exceeds the EU threshold(s) must be advertised in OJEU, this is managed through the e-tendering portal.

3.20.4.4 A Market Stimulation Event could be held in order to gauge interest in the procurement and provide an open forum for potential providers to raise questions and discuss the requirements.

3.20.4.5 The documentation issued with all tender processes must be clear on the process being adopted and all parties must be notified of any changes to that process. The tender must be conducted in a manner which is transparent, treats all parties equally and fairly and is

non-discriminatory. Bidders must have the opportunity to ask questions about the requirements where the information is not clear. These clarification questions and their responses must be circulated to all interested parties, unless they are of a confidential nature.

### **3.20.5 Restricted Procedure**

- 3.20.5.1 This is the most commonly used when procuring the types of goods and services required by Solent NHS Trust and is a two-stage process. The tender must be conducted via the e-tendering portal.
- 3.20.5.2 In the first stages suppliers who have expressed an interest complete a Selection Questionnaire (SQ) and the top scoring organisations, as detailed in the OJEU advert, are invited to respond to an Invitation to Tender (ITT).
- 3.20.5.3 This initial selection process allows for a number of providers to be shortlisted who have been evaluated as meeting the necessary mandatory areas of the Standard Selection Questionnaire (SQ) which tests their capacity and capability, Trusts have been mandated to use the SQ published by Crown Commercial Service. Criteria used are the exclusion criteria set out in the PCR, financial stability, relevant experience and other criteria applicable to each project. This reduces the number of potential tenders received and evaluated and the subsequent time and resources needed.
- 3.20.5.4 The second stage of the process looks at how the providers will meet the requirements of the Trust, as per the specification, through a series of probing questions and the potential costs and submitted before a pre-agreed deadline. The tender documentation must include the contract terms that will be used.
- 3.20.5.5 Tenders received after the due time and date, but prior to the opening of the other tenders, may be considered, only if the Chief Executive, or his nominated officer, decides that there are exceptional circumstances.
- 3.20.5.6 The tenders are then evaluated against the criteria as laid out in the tender documentation and the Preferred Provider(s) is selected and awarded the contract.

### **3.20.6 Open Procedure**

- 3.20.6.1 The open procedure is a one-step process, with no restrictions on who can submit a tender: it is open to all bidders. The Standard Selection Questionnaire (SQ) published by CCS, which tests the potential providers' capacity and capability, must still be included. Criteria used are the exclusion criteria set out in the PCR, financial stability, relevant experience and other criteria applicable to each project.
- 3.20.6.2 This runs the risk that organisations will waste substantial amounts of time completing full tenders and the organisation will spend time reviewing potentially unsuitable tender responses. Although bids can have pre-selection criteria and the Trust can decide to only evaluate those bids that meet that criteria. For this reason, the use of the restricted procedure is generally the preferred option. The Open procedure is appropriate to use if you have a restricted market and therefore you know that you will not receive a lot of responses.

### **3.20.7 The Competitive Procedure with Negotiation**

- 3.20.7.1 This is a more flexible process, the justification for this process and its applicability is on the basis that the services to be carried out, and the risks attached to the services, cannot be clearly defined so as to make setting the overall pricing and/or the creation of the specification to be provided accurately in order to permit the award of the contract using the open or restricted procedure. The process allows the contracting organisation substantial scope for negotiation and discussion with providers after bids have been received.
- 3.20.7.2 There are only limited cases where this can be used - usually for complex technical projects such as IT infrastructure or machinery, where the procuring organisation does

not have the skills to create a technical specification and wants expertise on the available options in the marketplace. Care must be taken not to unjustly favour one particular supplier.

3.20.7.3 This procedure should only be used in exceptional circumstances. However, the updated PCR (2015) provides greater freedom to use this procedure than the previous regulations.

### 3.20.6 **Competitive Dialogue**

3.20.6.1 The 'Competitive Dialogue' process allows potential providers to enter in to open discussions on the contracting authority's requirements, where they can ask the contracting authority questions about the specification or to seek clarity about any aspect of it, allowing the providers to shape the service or products offered, period and value of the service, prior to the submission of final bid.

3.20.6.2 The process should still include the SQ phase to test capacity and capability, so that dialogue is held with those potential providers who have the necessary experience.

3.20.6.3 These dialogues can take place either through the Trust convening a briefing meeting of all who have been invited to dialogue or asking for questions to be submitted in writing. Responses to questions should be circulated to all interested parties, unless they are commercial in confidence, to ensure that all receive the same information.

3.20.6.4 The updated PCR provides greater freedom to use this procedure.

### 3.20.7 **The Innovation Partnership Procedure**

3.20.7.1 A selection is made of those who respond to the advertisement for which the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market. The contracting authority is allowed to award partnerships to more than one supplier.

### 3.20.8 **E-auctions**

3.20.8.1 E-auctions or reverse auctions create an environment where suppliers bid against each other for a contract. The environment encourages competition with the result that goods are offered at their current market rate. It can be a quicker way to achieve CIP savings.

3.20.8.2 The Trust SFI's 7.3 makes reference to e-auctions. The Trust does not generally participate in these auctions as they are not suitable for many categories of spend. Where this does occur, it is conducted on the Trust's behalf by a third party, currently Crown Commercial Services for aggregated procurements, for example IT, who have the necessary systems to run an e-auction.

3.20.8.3 These auctions must ensure that they abide by the same legal and policy obligations that govern all public procurements. Specifically, e-procurement must be compatible with the Public Contract Regulations 2015 and the Trust's Standing Financial Instruction.

### 3.21 **STANDSTILL PERIOD**

3.21.1 The standstill period is a period of 10 calendar days that has to be kept between notification of the intention to award and completion of the contract or framework agreement with the preferred provider(s). During this time unsuccessful bidders can challenge the process. It is important to note that a challenge cannot be raised purely on the fact that they were not successful but that the principles of procurement (being open, fair & transparent) were not adhered to.

3.21.2 It is unlawful for a contracting authority to enter into a contract or conclude a framework agreement before the end of the standstill period. This applies to all procurement contracts except Light Touch Regime and call-off contracts from a framework agreement (where it is optional, though still to be recommended) or tenders under the EU Threshold. This is the second biggest area of legal challenge next to incorrectly advertised opportunities and adhering to this requirement will minimise the procurement risk for the organisation.

3.21.3 The minimum length of the standstill period depends on whether the notice is sent electronically. Normally the period will end at midnight on the 10<sup>th</sup> day after the relevant sending date provided the notice was given by fax or via electronic means (which would include email or a web-based system such as the e-tendering portal). If post or other (non-electronic) means are used, then the standstill period will end at midnight on the 15<sup>th</sup> day after the relevant sending date or at midnight on the 10<sup>th</sup> day after which the last of the tenderers/candidates to receive such a notice receives it, whichever occurs first.

## **3.22 ALTERNATIVE PROCUREMENT ROUTES**

### **3.22.1 E-Cataloguing**

3.22.1.1 Where possible, any clinical and non-clinical consumables should be procured through an e-catalogue via the Trust procurement system, iProc.

### **3.22.2 Casual Purchasing**

3.22.2.1 Purchasing patterns should be examined to minimise regular “one-off” or ad-hoc purchases. Services with recurring or ongoing requirements should consider their long term needs and an appropriate procurement exercise should be undertaken to ensure an appropriate contracting arrangement is in place for future purchasing.

3.22.2.2 It is also worth considering whether the required items are used across the Trust in other services.

### **3.22.3 Pilots and Trials**

3.22.3.1 Pilots and trials are often needed to test new or reformed goods / services in order to refine specifications in line with outcomes. If it is decided that a trial or pilot is appropriate then it will need to be clearly defined with the following requirements:

- Specific goal of the pilot
- Clearly defined timelines
- Volume limits (if applicable)
- Robust monitoring systems to enable evaluation of the pilots’ activity and outcomes.
- A contract or grant in place for the duration of the pilot / trial
- A clear view of the appropriate procurement route after the pilot.

3.22.3.2 The decision on whether a pilot or trial should be put out to tender should be made by the appropriate signatory as defined within the Standing Financial Instructions. The authorising signatory should evaluate the requirements of tendering compared to the reasons for testing the service.

3.22.3.3 Pilots and trials can be subject to the same procurement rules and regulations as a normal tender, please ensure you discuss any implementation with the Commercial Team prior to commencement.

### **3.22.4 Extending Existing Contracts or Awarding a New Contract without a Competition Process**

3.22.4.1 Extension to an existing contract - Whereby a new service is awarded to an existing provider as an extension or variation of their current contract. This is usually because they have demonstrated expertise in a similar area through an existing contract and are deemed capable of delivering the new requirements in a similar way.

3.22.4.2 The current legal test in case law is whether the changes are materially different in character from the original contract, such as to demonstrate that the parties to the contract are renegotiating the essential terms of the contract. If the legal interpretation is that the changes are such that in fact a new contract is to be delivered, then you need to return to the consideration of procurement.

3.22.4.3 Do not base your decision on just the assessment of the likelihood of legal challenge.

- 3.22.4.4 A risk assessment should be undertaken. This includes, value, (how does it compare to Standing Financial Instructions, Official Journal of the European Union (OJEU) limits), the level of market interest/capability, the geographic location (i.e. the more local the fewer providers are likely to be interested) and whether the new service supports essential services.
- 3.22.4.5 Whenever considering an extension to an existing contract, the Trust needs to consider potential tendering and competition issues under public procurement law and guidance.
- 3.22.4.6 Award without competition - Whereby the new service is awarded to a provider without competition. This should only be used where the value is below the Standing Financial Instructions limit (currently £50k over the contract life-span), or where it can be proven that there is only one provider who has the capability of providing the good(s) / service(s) required.
- 3.22.4.7 If the service is between £10,000 and £50,000 three written quotes should be sought before awarding the contract.

### 3.22.5 **Waiving of Trust SFIs and procurement processes**

3.22.5.1 This information has been taken from Solent NHS Standing Financial Instructions 7.5.3.

3.22.5.2 Formal quotation or tendering procedures need not be applied or required where:

- i. The estimated expenditure or income does not, or is not reasonably expected to, exceed **£5K** (life of contract);
- ii. Where the supply is proposed under special arrangements negotiated by the DHSC in which event the said special arrangements must be complied with;
- iii. Where supply of goods is through NHS Supply Chain unless the Chief Executive or nominated officers deem it inappropriate for reasons of cost or availability. The decision to use alternative sources must be documented;
- iv. Where the requirement is covered by an existing contract;
- v. Where a regional or national framework is in place and has been approved by the Board of Directors;
- vi. Where the Trust can utilise framework agreements through a direct award or further competition to achieve Value for Money. These may include but not be limited to Crown Commercial Services, NHS Commercial Solutions and the other NHS Hubs, NHS Shared Business Services, Health Trust Europe, Pro5;
- vii. Where a consortium/collaborative arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium/collaborative members;
- viii. Regarding disposals as set out in paragraph 15.1 of these Standing Financial Instructions;

3.22.5.3 Formal quotation or tendering procedures **may be waived** in the following circumstances and require single tender waiver approval:

- In very exceptional circumstances where the Chief Executive decides that formal quotation or tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record;
- Where the timescale genuinely precludes competitive quotations or tendering but failure to plan the work properly would not be regarded as a justification for a single tender;
- Where specialist expertise is required and is available from only one source;
- When the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;

- There is a clear benefit to be gained from maintaining continuity with an earlier project. However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
  - for the provision of legal advice and services providing that any legal firm or partnership commissioned by the Trust is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned. The Chief Finance Officer will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work; and
  - Where allowed and provided for in the Capital Investment Manual.
- 3.22.5.4 The waiving of competitive tendering procedures should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.
- 3.22.5.5 Where it is decided that competitive tendering is not applicable and should be waived, the fact of the waiver and the reasons should be documented and recorded in an appropriate Trust record and reported to the Audit and Risk Committee at each meeting.
- 3.22.5.6 The fundamental reason for the approval of a single tender waiver (STW) is that there is no known or demonstrable competition for that product or service and that the respective expenditure is adequately controlled. The areas whereby a STW can be used are highlighted above and are listed on the official Trust STW form.
- 3.22.5.7 Each case will be examined individually by procurement and as such the following are generic examples. A STW will only be approved if procurement are satisfied that the necessary processes and procedures have been followed in respect of competition and that challenges by third parties will be of minimal risk to the organisation, or that plans to take this to the market are already in progress and can be demonstrated. The waiver in this case will provide continuity of service until the conclusion of the procurement process.
- 3.22.5.8 It must be remembered that waivers over the EU thresholds should not be waived as to do so carries a risk of a procurement challenge.
- 3.22.5.9 Other reasons that are considered by Procurement as valid are:
- a. Where organisational or reconfiguration of the local health economy means that the Trust's needs cannot be scoped and it would not be sensible and reasonable to take this contract opportunity to market.
  - b. Where a company, for example a non-framework agency, has been used for a short time span and the engaged member of staff is needed to complete the project. The resulting spend would encroach upon the quotation levels of the Trust and competition would need to be able to be demonstrated. In this circumstance if the requisitioner had made best endeavours to utilise a national framework in the first instance but staff were not available procurement may support the waiver but only if the booking length was not too long in duration on continuity grounds as the benefits of re-sourcing would outweigh those gained by continuity.

### **3.23 RESERVE PURCHASE ORDERS**

- 3.23.1 Retrospective / reserve purchase orders should be considered as a last resort and are not an excuse to avoid good procurement practices. Planning should include future needs for goods and services allowing sufficient time to undertake the appropriate procedure.
- 3.23.2 Retrospective orders will be monitored by the Commercial Team for trends, range of orders and recurrent offenders. These will be highlighted to appropriate Executive Directors to support change in practice and avoid future use of retrospective orders.
- 3.23.3 Where retrospective orders commit the organisation to an on-going contract, the Commercial Team must be notified so that the contract can be recorded and ensure that any unfair terms may be addressed.

3.23.4 Where a contract is felt to be too high a risk to continue, the Commercial Team will highlight this to the Trust Executive for a decision to set aside the contract or mitigate risk.

### 3.24 PROCEDURE FOR COMPLETING A SINGLE TENDER WAIVER (STW)

3.24.1 The requisitioner raises the requisition and at the same times completes the Solent NHS Waiver form fully. Clearly stating the reason for no formal competition, which must meet the criteria set out in viii above.

3.24.2 The completed form is then sent to the Head of Procurement who completes the Procurement section and agrees or disagrees with the reasons given, before sending on to the Chief Finance Officer.

3.24.3 The Chief Finance Officer will then send back the STW to the Commercial Team. If agreed, the requisition will be approved and generated into a purchase order.

### 3.25 PROCUREMENT TIMELINES

3.25.1 Solent NHS Trust conducts all its EU tenders electronically via the NHS Commercial Solutions' e-tendering portal; BRAVO. This allows a reduction in the minimum timescales as stated below. **All tenders are run via Procurement via the e-tendering portal and this includes mini competitions and all quote processes managed by the Commercial Team.**

NORMAL MINIMUM TIME	IF ELECTRONIC TENDER PERMITTED	IF URGENT+	WHERE PIN PUBLISHED*	IF SUB CENTRAL AUTHORITY**
<b>Open procedure</b>				
Minimum time limit for receipt of tenders  35 days	Minimum time limit for receipt of tenders  30 days	Minimum time limit for receipt of tenders  15 days	Minimum time limit for receipt of tenders  15 days	-
<b>Restricted procedure</b>				
Minimum time limit for requests to participate  30 days	-	Minimum time limit for requests to participate  15 days	Minimum time limit for requests to participate  30 days	Minimum time limit for requests to participate  30 days
Minimum time limit for tenders  30 days	Minimum time limit for receipt of tenders	Minimum time limit for tenders  10 days	Minimum time limit for tenders  10 days	Minimum time limit for tenders to be set by agreement with tenderers.

	25 days			In the absence of agreement minimum time limit  10 days
<b>Competitive procedure with negotiation and innovation partnerships</b>				
Minimum time limit for requests to participate  30 days	-	Minimum time limit for requests to participate  15 days	Minimum time limit for requests to participate  30 days	Minimum time limit for requests to participate  30 days
Minimum time limit for initial tenders  30 days	Minimum time limit for receipt of initial tenders  25 days	Minimum time limit for tenders  10 days	Minimum time limit for tenders  10 days	Minimum time limit for tenders to be set by agreement with tenderers.  In the absence of agreement minimum time limit  10 days
<b>Competitive dialogue</b>				
Minimum time limit for requests to participate  30 days	-	-	-	-



No explicit time limits for submission of initial/subsequent tenders	-	-		
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### **3.26 INFECTION CONTROL**

- 3.26.1 Procurement best practice accepts that there is a requirement to ensure that all products used by Solent NHS Trust meet the desired standards of being fit for the purpose intended, whilst also representing best value for money.
- 3.26.2 As part of the specification and selection processes for each product, the Trust must ensure that products are purchased that minimise the potential risk of infection, e.g. products that are easily cleaned. This is enforced within the procurement processes by inclusion of specific questions on decontamination and infection control being incorporated within the documentation and prequalification questionnaire where applicable.
- 3.26.3 For relevant procurements that have infection control implications, a member of the Trust’s infection control team are invited to advise and be part of the process to ensure all resulting products do not pose a risk to the Trust, for example standardisation projects.

### **3.27 ELECTRONICS AND MEDICAL ENGINEERING (EME) AND MEDICAL DEVICES**

- 3.27.1 All medical devices must comply with appropriate British standards of manufacture to ensure safety and that they are fit for purpose and must be bought in line with the Management of Medical Devices Policy.
- 3.27.2 Where medical devices have not been used before, please refer to the Management of Medical Devices Policy.
- 3.27.3 Where possible, the on-going needs for maintenance should be considered in any decision to purchase products and how these may be maintained. Costs for on-going maintenance must be included as lifetime costs and will be used to influence the threshold of tender limits as defined by the Trust SFIs.
- 3.27.4 The Medical Device Group oversees the effectiveness of protocols for the purchase, maintenance, repair, deployment, donation and replacement of medical devices and equipment. Procurement will work with the group to standardise these purchases across the Trust.

### **3.28 ENGAGEMENT OF CONSULTANTS**

- 3.28.1 Where the Trust is looking to engage the services of an outside consultant for a specific role or project, Trust staff must adhere to the Trust Standing Financial Instructions. For further information, please see the Relationships at Work Policy
- 3.28.2 The company engaged should have been subject to a procurement process, whether that is by selection from a framework or a bespoke procurement. A full specification, timescales, evaluation criteria are needed.
- 3.28.3 Consultancy appointments are like any other service being monitored and managed to ensure that the agreed outputs are achieved.
- 3.28.4 On no account should a Trust member of staff engage a personal acquaintance or family member for consultancy or any other purposes. This is a conflict of interest and not ethical.
- 3.28.5 Where the services of an individual are genuinely needed, the appointing manager must ensure that they assess the tax status in accordance with IR35 assessment, of the person that they are engaging and follow the Bank, Agency and Locum Workers Management and Use Policy.

### **3.29 EQUIPMENT ON LOAN**

- 3.29.1 The National Health Service is a constant target for companies who would like to sell their products to NHS Trusts and staff may at times be approached by sales representatives offering to provide equipment *free on loan* or to supply goods *free of charge*.
- 3.29.2 In these circumstances, staff should refuse acceptance of the equipment/goods unless Solent NHS Trust has been provided protection via an indemnity agreement, which is signed by the company or their representative in support of the free equipment/loan goods. It is essential that the Trust and the individual are fully indemnified against any potential problems which may occur, particularly in the case of loaned medical equipment before the goods are accepted on the Trust premises.
- 3.29.3 Failure to have a signed warranty form could create issues later around liability should anything unforeseen happen whilst the goods are being used.
- 3.29.4 Unscrupulous companies will often offer free goods to an organisation or an individual member of staff which then tie the Trust to a longer period of contract that is difficult to cancel.
- 3.29.5 Rather than place yourself or the Trust at risk please contact the Commercial Team.

### **3.30 PETTY CASH AND PERSONAL EXPENSES**

- 3.30.1 Petty cash and personal expenses should under no circumstances be used to purchase items that have been disagreed by the Commercial Team.

### **3.31 COMPLAINT AND RESOLUTION PROCESS**

- 3.31.1 The process for resolving disputes exists to ensure compliance with the principles of transparency, objectivity, non-discrimination and consistency and the EU treaty.

Stage One – Making the Complaint – 10 working days.

- 3.31.2 Any complaint must be submitted to the Chief Finance Officer. This complaint will be assessed by the Chief Finance Officer and the Assistant Commercial Director.
- 3.31.3 The complaint should be made within ten working days of the basis of the complaint being known to the complainant.

Stage Two – Assessment of Claim – 15 working days

- 3.31.4 Following receipt of the complaint, the Trust will make an assessment and may seek further clarification or information from the complainant.
- 3.31.5 The Trust is best placed to resolve the issue if legal proceedings have not been commenced and will write to the complainant within 15 days advising of the decision. In exceptional circumstances, when Trust staff are not available, this period may be extended.

Stage Three – Right of Appeal.

- 3.31.6 The Trust expects most complaints to be successfully resolved. If the complainant is unhappy with the decision this will be referred to the Trust solicitor.

### **3.32 MANAGEMENT OF CONTRACTS**

- 3.32.1 The contractual relationships between Solent NHS Trust and suppliers and providers play a central and fundamental part in the delivery of the Trust's services. Failure can be expensive in staffing, financial and reputational terms.
- 3.32.2 The Trust recognises that good contract management is key to successful service delivery. Trust staff should ensure that they are familiar with the Contract Management Toolkit Process.
- 3.32.3 The need for keeping robust accurate records is paramount. Management information is essential to help ensure that work is completed and to the appropriate standards. This should also evidence that there are appropriate controls in place which can be documented to give assurances in regard to quality and cost; i.e. that details are correct in terms of

volumes, times, skills, rates, any variations, overall cost, and that total expenditure is within budget. This also helps provide historical data and trend analysis for future requirements.

### **3.33 BREACHES OF SOs, SFIs and EU PUBLIC PROCUREMENT DIRECTIVES**

- 3.33.1 Standing orders, standing financial instructions and the Public Contract Regulations are issued for the regulation of conduct. They are designed to ensure that the financial transactions of public bodies are carried out in accordance with both law and government policy.
- 3.33.2 Spend that has not received the correct authority or has taken place outside an authorised contract is called 'maverick spend'. In itself, the presence of maverick spend does not indicate that corrupt activities have taken place. Maverick spend, either intentional or unintentional, nonetheless opens up various opportunities for short-cuts, reduced scrutiny and collusion that would not be present if the correct procedures were followed.
- 3.33.3 Over time the number of EU and UK regulations and guidelines has grown, creating the perception in some quarters that public procurement is an excessively bureaucratic process. Claims that breaches of SFIs have been carried out in the best interest of a health body should always be viewed with caution. An organisational culture that allows poor procurement practices to enter into 'business-as-usual', exposes purchasers to preventable losses or increased costs and severely limits the possibility of criminal prosecution where wrongdoing has occurred.
- 3.33.4 The most common breaches of procurement processes identified from the NHS Counter Fraud Authority's experience are:
- a. no tender process adopted at all
  - b. inappropriate use of single tender waivers
  - c. undervaluation of the contract
  - d. splitting contracts with no rationale
  - e. negotiation with one supplier contrary to the rules of the procurement process being adopted
  - f. negotiation of key contract issues post award
  - g. failure to keep or publish evaluation criteria
  - h. vague specification criteria
  - i. failure to receive a sufficient number of bids
  - j. failure to provide a rationale for the selection of certain bidders chosen to be invited to tender/quote.
- 3.33.5 The common justifications for preferring a supplier are satisfactory performance, working with known and trusted faces and the requirement for speed, although these may be a cover for corrupt transactions (Søreide, T (2002) Corruption in Public Procurement. Causes, Consequences and Cures. Retrieved 24 September 2012 from: (<http://www.cmi.no/publications/publication/?843=corruption-in-public-procurement-causes>)).
- 3.33.6 Failure to comply with SFIs and PCR can be regarded as a disciplinary matter that could result in dismissal. It may also lead to a procurement exercise having to be re-tendered. It is a corporate offence under the Bribery Act 2010 for an organisation to fail to prevent active bribery (i.e. promising or giving a financial or other advantage) by not having adequate preventative procedures in place.
- 3.33.7 It is incumbent on NHS bodies to have appropriate governance arrangements which will enable them and their boards to discharge their financial responsibilities. These arrangements will assist in good governance, leading to transparency in the policies adopted, the decisions made and the process used to arrive at a decision. Health bodies should also make sure that staff involved in procurement processes are aware of these arrangements, and stress to them the importance of ethical behaviour in their role as public servants. This should be supported by adequate training and opportunities to receive advice on ethical dilemmas.

- 3.33.8 A bidder may challenge a contract award where they believe that there has been a breach of the procurement rules or principles and they have or will suffer a loss as a result.
- 3.33.9 The result may be a suspension of an incomplete contract award procedure, setting aside of a decision in an incomplete contract award procedure, award damages where a contract has been entered into and in some circumstances overturn the contract.

## **4 TRAINING**

- 4.1 Trust Board – has overall responsibility for the strategic and operational management of the Trust, including ensuring that Trust policies comply with all legal, statutory and good practice requirements.
- 4.2 Managers must ensure that all staff are aware of this policy.
- 4.3 The Trust has a process for training all permanent and temporary staff/users of the purchasing system and provides in-house training and a helpdesk function. Details of system training & competency are recorded and maintained by the Iproc Trainer within the procurement Operational Buying Team.
- 4.4 New staff members are referred to the trainer by finance or the relevant service via an email to the Procurement Dept inbox. The trainer then contacts the user and arranges an appropriate date and time for training.
- 4.5 Once training has been completed and competency is confirmed, the trainee will be issued with an SBS log in by the Finance Team.

## **5 EQUALITY IMPACT ASSESSMENT**

- 5.1 The equality impact assessment is appended as Appendix A.

## **6 SUCCESS CRITERIA / MONITORING EFFECTIVENESS**

- 6.1 Compliance will be monitored through a number of metrics including:
- number and trend of compliant orders
  - number and trend of procurements undertaken. This will include quotations, below and above OJEU level tenders, mini competitions and benchmarking exercises undertaken
  - number of Single Tender Waivers
  - EU legislation is reviewed by the EU and changes are ratified through UK regulations and imposed on public sector organisations as required.
  - Regular reports will be provided to the Commercial Group.
  - The DHSC Procurement dashboard and Procurement Standards will be used to measure, monitor and assess the Trust's performance.
  - The Trust will benchmark its performance against other Trusts and Public Bodies via the NHS Commercial Alliance.

## **7 REVIEW**

- 7.1 This document may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed 3 years from initial approval and thereafter on a triennial basis unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.
- 7.2 The Policy will be reviewed by the Head of Procurement.

## **8 REFERENCES AND LINKS TO OTHER DOCUMENTS**

- 8.1 Key References

NHS Standards of Procurement ( <a href="https://www.gov.uk/government/publications/nhs-procurement-standards">https://www.gov.uk/government/publications/nhs-procurement-standards</a> )
EU Procurement Directives ( <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0024">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0024</a> )
EU Remedies Directive - Directive 89/665/EEC ( <a href="https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:31989L0665">https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:31989L0665</a> )
Public Contract Regulations ( <a href="http://www.legislation.gov.uk/uksi/2015/102/contents/made">http://www.legislation.gov.uk/uksi/2015/102/contents/made</a> )
NHS Counter Fraud Authority - Pre-Contract Procurement Fraud and Corruption; Guidance for the prevention and Detection July 2018 –and Procurement Fraud Quick Guides;  <a href="#">NHS fraud guidance   Fraud Prevention   NHS Counter Fraud Authority (cfa.nhs.uk)</a>
Procurement Transparency Guidance ( <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/600618/Procurement_Transparency_Mar_17.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/600618/Procurement_Transparency_Mar_17.pdf</a> )
Bribery Act 2010 ( <a href="http://www.legislation.gov.uk/ukpga/2010/23/contents">http://www.legislation.gov.uk/ukpga/2010/23/contents</a> )
Public Services Social Value Act 2013 ( <a href="http://www.legislation.gov.uk/ukpga/2012/3/enacted">http://www.legislation.gov.uk/ukpga/2012/3/enacted</a> )
Climate Change Act (2008) ( <a href="http://www.legislation.gov.uk/ukpga/2008/27/contents">http://www.legislation.gov.uk/ukpga/2008/27/contents</a> )
Better Procurement Better Value Better Care: A Procurement Development Programme for the NHS – August 2013 ( <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226835/procurement_development_programme_for_NHS.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226835/procurement_development_programme_for_NHS.pdf</a> )
Operational productivity and performance in English NHS acute hospitals: Unwarranted variations (An independent report for the Department of Health by Lord Carter of Coles) 2016 ( <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/499229/Operational_productivity_A.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/499229/Operational_productivity_A.pdf</a> )
Crown Commercial Service ( <a href="https://www.crowncommercial.gov.uk/">https://www.crowncommercial.gov.uk/</a> )
FOIA (Freedom of Information Act (2000) ( <a href="http://www.legislation.gov.uk/ukpga/2000/36/contents">http://www.legislation.gov.uk/ukpga/2000/36/contents</a> )
Sørreide, T (2002) Corruption in Public Procurement. Causes, Consequences and Cures. Retrieved 24 September 2012 from: ( <a href="http://www.cmi.no/publications/publication/?843=corruption-in-public-procurement-causes">http://www.cmi.no/publications/publication/?843=corruption-in-public-procurement-causes</a> )

## 8.2 Related Policies/Procedures

Title	Reference
Standing Financial Instructions	

Solent Standing Orders	
Scheme of Delegation	
Procurement Strategy	
Local Counter Fraud, Bribery and Corruption Policy	GO09
Managing Conflicts of Interest Policy	GO10
Contract Management Toolkit Process (Draft)	
Supplier Representatives Policy	
Bank, Agency and Locum Workers Management and Use Policy	HR05
Sustainability Policy	ESF001
Management of Medical Devices Policy	RK07
Data Protection Compliance Policy	IG23
Information Request Policy	IG22
Business Continuity Plan (Commercial)	
Relationships at Work Policy	HR61

## APPENDIX A: EQUALITY IMPACT ASSESSMENT

**Equality Analysis** is a way of considering the potential impact on different groups protected from discrimination by the Equality Act 2010. It is a legal requirement that places a duty on public sector organisations (The Public Sector Equality Duty) to integrate consideration of Equality, Diversity and Inclusion into their day-to-day business. The Equality Duty has 3 aims, it requires public bodies to have due regard to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and other conduct prohibited by the Equality Act of 2010;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not;
- **foster good relations** between people who share a protected characteristic and people who do not.

**Equality Impact Assessment** (EIA) is a tool for examining the main functions and policies of an organisation to see whether they have the potential to affect people differently. Their purpose is to identify and address existing or potential inequalities, resulting from policy and practice development. Ideally, EIAs should cover all the strands of diversity and Inclusion. It will help us better understand its functions and the way decisions are made by:

- **considering the current situation**
- **deciding the aims and intended outcomes of a function or policy**
- **considering what evidence there is to support the decision and identifying any gaps**
- **ensuring it is an informed decision**

### Equality Impact Assessment (EIA)

#### Step 1: Scoping and Identifying the Aims

Service Line / Department	Commercial	
Title of Change:		
What are you completing this EIA for? (Please select):	Policy	<i>(If other please specify here)</i>
What are the main aims / objectives of the changes	Not applicable	

#### Step 2: Assessing the Impact

Please use the drop-down feature to detail any positive or negative impacts of this document /policy on patients in the drop-down box below. If there is no impact, please select "not applicable":

Protected Characteristic	Positive Impact(s)	Negative Impact(s)	Not applicable	Action to address negative impact: <i>(e.g. adjustment to the policy)</i>
Sex			Not applicable	
Gender reassignment			Not applicable	
Disability			Not applicable	

Age			Not applicable	
Sexual Orientation			Not applicable	
Pregnancy and maternity			Not applicable	
Marriage and civil partnership			Not applicable	
Religion or belief			Not applicable	
Race			Not applicable	

*If you answer yes to any of the following, you MUST complete the evidence column explaining what information you have considered which has led you to reach this decision.*

Assessment Questions	Yes / No	Please document evidence / any mitigations
In consideration of your document development, did you consult with others, for example, external organisations, service users, carers or other voluntary sector groups?)	No	
Have you taken into consideration any regulations, professional standards?	Yes	<b>The Public Contract Regulations 2015, PROCUREMENT, PATIENT CHOICE, AND COMPETITION (No.2) REGULATIONS 2013, Freedom of Information Act (2000), Bribery Act 2010, Public Services Social Value Act 2013, Climate Change Act (2008)</b>

### Step 3: Review, Risk and Action Plans

How would you rate the overall level of impact / risk to the organisation if no action taken?	Low	Medium	High
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
What action needs to be taken to reduce or eliminate the negative impact?			
Who will be responsible for monitoring and regular review of the document / policy?	Head of Procurement		

### Step 4: Authorisation and sign off

*I am satisfied that all available evidence has been accurately assessed for any potential impact on patients and groups with protected characteristics in the scope of this project / change / policy / procedure / practice / activity. Mitigation, where appropriate has been identified and dealt with accordingly.*

Equality Assessor:



Date: 01/02/2021



## Additional guidance

Protected characteristic	Who to Consider	Example issues to consider	Further guidance
1. <b>Disability</b>	A person has a disability if they have a physical or mental impairment which has a substantial and long term effect on that person's ability to carry out normal day today activities. Includes mobility, sight, speech and language, mental health, HIV, multiple sclerosis, cancer	<ul style="list-style-type: none"> <li>• Accessibility</li> <li>• Communication formats (visual &amp; auditory)</li> <li>• Reasonable adjustments.</li> <li>• Vulnerable to harassment and hate crime.</li> </ul>	Further guidance can be sought from: Solent Disability Resource Group
2. <b>Sex</b>	A man or woman	<ul style="list-style-type: none"> <li>• Caring responsibilities</li> <li>• Domestic Violence</li> <li>• Equal pay</li> <li>• Under (over) representation</li> </ul>	Further guidance can be sought from: Solent HR Team
3 <b>Race</b>	Refers to an individual or group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.	<ul style="list-style-type: none"> <li>• Communication</li> <li>• Language</li> <li>• Cultural traditions</li> <li>• Customs</li> <li>• Harassment and hate crime</li> <li>• "Romany Gypsies and Irish Travellers", are protected from discrimination under the 'Race' protected characteristic</li> </ul>	Further guidance can be sought from: BAME Resource Group
4 <b>Age</b>	Refers to a person belonging to a particular age range of ages (eg, 18-30 year olds) Equality Act legislation defines age as 18 years and above	<ul style="list-style-type: none"> <li>• Assumptions based on the age range</li> <li>• Capabilities &amp; experience</li> <li>• Access to services technology skills/knowledge</li> </ul>	Further guidance can be sought from: Solent HR Team
5 <b>Gender Reassignment</b>	" The expression of gender characteristics that are not stereotypically associated with ones sex at birth" World Professional Association Transgender Health 2011	<ul style="list-style-type: none"> <li>• Tran's people should be accommodated according to their presentation, the way they dress, the name or pronouns that they currently use.</li> </ul>	Further guidance can be sought from: Solent LGBT+ Resource Group
6 <b>Sexual Orientation</b>	Whether a person's attraction is towards their own sex, the opposite sex or both sexes.	<ul style="list-style-type: none"> <li>• Lifestyle</li> <li>• Family</li> <li>• Partners</li> <li>• Vulnerable to harassment and hate crime</li> </ul>	Further guidance can be sought from: Solent LGBT+ Resource Group
7 <b>Religion and/or belief</b>	Religion has the meaning usually given to it but belief includes religious and philosophical beliefs, including lack of belief (e.g Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. (Excludes political beliefs)	<ul style="list-style-type: none"> <li>• Disrespect and lack of awareness</li> <li>• Religious significance dates/events</li> <li>• Space for worship or reflection</li> </ul>	Further guidance can be sought from: Solent Multi-Faith Resource Group Solent Chaplain
8 <b>Marriage</b>	Marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples under English law.	<ul style="list-style-type: none"> <li>• Pensions</li> <li>• Childcare</li> <li>• Flexible working</li> <li>• Adoption leave</li> </ul>	Further guidance can be sought from: Solent HR Team
9 <b>Pregnancy and Maternity</b>	Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In non-work context, protection against maternity discrimination is for 26 weeks after giving birth.	<ul style="list-style-type: none"> <li>• Employment rights during pregnancy and post pregnancy</li> <li>• Treating a woman unfavourably because she is breastfeeding</li> <li>• Childcare responsibilities</li> <li>• Flexibility</li> </ul>	Further guidance can be sought from: Solent HR team

## **APPENDIX B: EXCEPTIONS TO THE ORDERING PROCEDURES**

### **Rates, Council Tax, Rent, Service Charges**

Placing an order for these areas would not increase control and Procurement could not add any value to this process as rates and council tax are set by local authorities. Rent and respective service charges are negotiated as part of a property lease and in the vast majority of cases, Solent NHS Trust is a tenant and not a landlord at many of the sites where services are based. Lease agreements would also have been agreed in line with the scheme of delegation.

Rates are also reviewed for their accuracy by outside contractors engaged by the Trust.

### **Utilities (gas, electricity and water)**

Procurement could not add any value by raising purchase orders for this category of spend. Gas and electricity are purchased via a national contract. Water charges are unable to be negotiated locally.

### **Telephone, mobile phones and pagers**

All telecoms contracts have been subject to a procurement process and are compliant spend. In addition the varying nature of this makes raising orders an impractical solution.

### **NHS bodies**

All expenditure with a valid SLA does not need a purchase order. Currently EU law allows us to trade with other NHS Bodies without formal competition should we consider this VFM. However some purchases e.g. training materials or courses may require a purchase order to obtain goods or services.

### **Temporary Workers**

The engagement of temporary workers where HR processes have been followed do not necessitate a purchase order.

### **Insurance and other premiums**

These are variable charges and mostly sourced from a national framework or mandated through DHSC.

### **Pharmacies and GP Practices**

These include self-employed pharmacists and adhoc services from GP services that are supported by a valid SLA.

### **Legal settlement fees, Losses and Compensations claims**

These are highly confidential and payments to individuals or their solicitors. The process is overseen by the Trust legal team or our external solicitors.

### **Urgent emergency payments to avoid legal action**

In extreme circumstances payments have to be made very quickly and there is insufficient time for the requisition to go through the approval workflow process.

### **Planning application fees**

These are regionally set charges and Procurement can add no value to the process.

### **Lease car payments**

Leases for business vehicles and staff lease cars are sourced from national contractors and lease contracts will have been signed.

### **Fuel cards**

This is a variable charge and procurement can add no value.

### **Imprest reimbursements**

Petty cash usage is reducing and these payments are to reimburse sites on their usage. Finance will notify the Commercial Team of any expenditure that should have gone through the procurement route.

### **Payroll allowances and deductions**

These are statutory deductions i.e. tax, national insurance and other deductions on behalf of an employee like union membership fees. Raising a purchase order has no value.

### **Purchase card payments**

These are held by the Commercial Team and are for infrequent payments to organisations not accepting purchase orders e.g. for gift cards for retirement which cannot be negotiated. Finance will notify the Commercial Team of any expenditure that should have gone through the procurement route.

### **TV Licences**

Procurement could not add any value by raising purchase orders for this category of spend. TV licence fees are set nationally.

**Other exemptions may be agreed by the Head of Procurement and the Chief Finance Officer.**

## APPENDIX C: PROCUREMENT DEFINITIONS

Below is a list of technical terms associated with Procurement. If you require any further advice relating to any of the terms listed below, please contact the Procurement Department.

<b>Term</b>	<b>Definition</b>
Award Criteria	Categories which will determine the way in which a competitive procurement exercise will be evaluated at the ITT stage. Usually given a weighting (see below), these act as headlines to the bidders to show them what the Trust considers to be important; e.g. Quality (60%) and Price (40%). These are routinely split into sub-criteria relating to particular aspects of the above. The award criteria must be published with the ITT and cannot be changed once published.
Bravo Solution	This is an electronic e-tendering portal allowing Solent NHS Trust to conduct all its EU tenders electronically in order to be compliant with PCR and allowing for reduced timescales.
Central Government Bodies	<p>A public body is considered to be a “Central Government Authority” if they are listed in the <a href="#">World Trade Organisation’s Government Procurement Agreement (WTO’s GPA)</a> and is listed under <a href="#">Schedule 1 of the 2015 UK Regulations</a>.</p> <p>This list includes Government Departments and their ALBs: Executive Agencies, Non-Departmental Public Bodies, Non Ministerial Departments, and any other non-market bodies controlled and mainly financed by them.</p>
Commercial Corruption	A criminal charge in the Bribery Act 2010, which relates to any undue influence on the award of contracts.
Concessions Works and Services	<p>The Public Sector Directive (<i>Directive 2004/18</i>) defines two types of concessions: public works concession contracts and public service concession contracts, which are each treated differently.</p> <p>Public works concessions above a defined threshold (see 0) are currently subjected to advertising, timing and sub-contracting requirements under the Directive. There are no restrictions on the choice of procedure or criteria for selection other than the Treaty principles of transparency, equal treatment and non-discrimination. While service concessions are not formally regulated, the Treaty principles also apply to them.</p> <p>In a basic public concession, a contracting authority grants a private entity a right to provide an asset or service. Rather than pay for</p>

	providing the asset or service, the contracting authority transfers the opportunity to the private entity, along with the demand risk (the risk that there will be little or no market to exploit). Revenue from fees paid by third party users (normally the general public) to the private entity are then used to meet the costs incurred and to make a profit.
Conflict of Interest	A person with authority to make a (commercial) decision on behalf of the Trust who at the same time has an interest (investment, ownership, directorship etc.) in a company or organisation that the decision relates to. These conflicts must be declared in advance, to ensure that this person cannot influence the decision.
Consumables-backed Deals	Typically this is an agreement under which certain equipment is offered free on loan in consideration for the Trust purchasing the consumables that are used with it. These are often proprietary products and may tie the Trust into that company's goods for a set period of time.
Contracts Finder	Contracts Finder is the Governments contract log on Gov.UK and is an online tool to help you find information about contracts with the government and its agencies.  NHS organisations must log all expenditure here and advertise below threshold and Light Touch Regime procurements.
Crown Commercial Services ,CCS  (previously OGC and Buying Solutions),	Formerly the Government Procurement Service (previously OGC and Buying Solutions), which provides advice and guidance about procurement legislation, Government policy and best practice and procuring Frameworks and Contracts on behalf of the Public Sector. Part of the Cabinet Office.
Declaration of Interests	A statement by a person in an organisation of involvement (investment, ownership, directorship etc.) with other organisations or companies.
Direct Call-Off	This relates to a Framework Agreement (see below) that allows the buyer to choose from a list of capable suppliers to make a purchase without entering into a Further Competition (see below). This would mostly be the highest-ranked supplier first; however some Frameworks do not allow direct call off so it's important to check the terms and conditions of all agreements prior to engaging with suppliers.
e-cataloguing	An <b>e-catalogue</b> contains an agreed product and price range that the organisation has negotiated with the supplier. It allows for all the suppliers to list their products in an online solution.

<p>EU Contracts Directive (2014/24/EU)</p>	<p>This is the new Public Contracts Directive (2014/24/EU). This Directive and the Utilities Directive (2014/25/EU) were transposed in to the Public Contracts Regulations by Statutory Instrument No 102. And can be viewed from the following link  <a href="http://www.legislation.gov.uk/uksi/2015/102/contents/made-">http://www.legislation.gov.uk/uksi/2015/102/contents/made-</a></p> <p>The purpose of the EU procurement rules, underpinned by the Treaty principles, is to open up the public procurement market and to ensure the free movement of supplies, services and works within the EU. In most cases they require competition. The EU rules reflect and reinforce the value for money (vfm) focus of the Government’s procurement policy. This requires that all public procurement must be based on vfm, defined as “the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought”, which should be achieved through competition, unless there are compelling reasons to the contrary.</p> <p>The rules support UK Government priorities of economic growth and deficit reduction by making the public procurement process faster, less costly, and more effective for business and procurers alike.</p> <p>These provide a much more modern, flexible and commercial approach compared to the previous regime. Outdated and superfluous constraints have been removed, and many new features have been added to streamline and modernise public procurement. For contracting authorities, this means being able to run procurement exercises faster, with less red tape, and more focus on getting the right supplier and the best tender. And for suppliers, the process of bidding for public contracts should be quicker, less costly, and less bureaucratic, enabling suppliers to compete more effectively.</p> <p>The distinction between Part A and Part B services has been removed through Public Contract Regulations 2015. For health and social services contracts a “light touch” regime will be utilised.</p>
<p>EU Threshold</p>	<p>This is the spend threshold that is set every two years by the EU (see 0). If the whole life cost (for the whole term of the contract, including extension periods) of a contract/purchase is expected to meet or exceed the value set, then one of the EU tender processes must be used.</p>
<p>Expression of Interest</p>	<p>The step in a tender where the requirement has been advertised, and companies indicate that they would like to participate.</p>

Framework Agreement	<p>Is an agreement or other arrangement established by an OJEU process between one or more contracting authorities and one or more economic operators, which establishes the terms (in particular price and quality where appropriate) under which the economic operator will enter into one or more contracts with a contracting authority in the period of the framework. The framework in itself is not a contract but the 'call off' from the framework is. Framework agreements are for 4 years. This is a type of agreement which sets out broad conditions for organisations to buy from without giving any kind of commitment to quantities. It will offer a category of goods or services to a number of organisations that have been named (or the type of organisation has been named – e.g. NHS Trusts in England). The organisations named can then buy (call off) from a Framework Agreement by either going directly to the highest-ranked supplier (direct call-off), or via further (or Mini-) Competition in which all capable suppliers on the Framework must be invited to compete for the business. A Further Competition is usually preferred where the conditions/specification is not detailed enough for your specific requirements. Some frameworks do not allow a direct call off.</p> <p>Many Frameworks are split into <i>Lots (see definition below)</i>. When using frameworks always ensure the supplier you use is specified in the appropriate Lot.</p>
FOIA (Freedom of Information Act (2000))	<p>This Act allows any person to ask any public sector organisation for the recorded information they have on any subject. This can include any information that is not specifically exempt, and is governed by the ICO (Information Commissioner's Office). Unsuccessful bidders have been known to use the Act as a way of finding out more information about a tender process or request for quotation process they have been through.</p>
Further Competition or mini-competition	<p>This relates to Framework Agreements (see above) where the specification is not detailed enough to determine which supplier on a Framework has the best product/service. You must include all capable suppliers on the Framework to quote for the business.</p>
Iproc	<p>Iproc is the purchase to pay system that is interfaced with the Solent NHS Trust financial system. It operates via a web requisitioning system for requisitioning staff and the full ordering and payment process provides delegated powers and hierarchy levels of budget authorisation throughout the whole of the organisation. It is important that all requisitioners and budget holders alike routinely access the system to ensure that all outstanding requisitions waiting approval are actioned quickly. Failure to do this result in orders not being placed.</p>



ITT (Invitation to Tender)	This is a stage in a formal tender process. This document incorporates the specification (your statement of requirements for the products/services) and the Offer schedule (your request for pricing for the products/services) as well as the Trust’s terms and conditions not only for the resulting contract, but also for suppliers bidding against the requirement.
Leasing (Finance)	This is an alternative way of financing a purchase, particularly where expensive capital equipment is concerned. This converts the purchase into a revenue transaction. The principles are that a financing company purchases the equipment on behalf of the Trust, and the Trust then pays the finance company over a period of years. This allows the finance company to recover their costs. There is often an option at the end of the lease to purchase the equipment. When the lease expires the asset may otherwise be the property of the finance company, who may remove it. It is, therefore, critical that replacement equipment is considered with plenty of time for a further procurement. <u>Please Note:</u> This often leads to a two-phase procurement process; phase 1 to specify the equipment and award to the manufacturer; phase 2 to arrange the financing with the lease companies. It is vital that the equipment manufacturers understand that a lease may be used at the start of the process. See also Residual Value (below). Finance must be made aware of any Finance Leases.
Leasing (property)	Where a service provider or contractor is delivering a service from a Trust property, particularly where this requires works and equipment, or where a static ‘unit’ is involved, it is often necessary to enter into a lease with the other party. This is a property lease rather than a financing lease. It does not have a cost to the Trust (beyond legal costs if advice is required) but it details each parties’ responsibilities in terms of access, maintenance, services, rental payments etc.
Light Touch Regime	The light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A).
Lots	In some tenders it is appropriate to split the basket of goods /services required into separate appropriate groupings known as <i>Lots</i> to enable suppliers to bid for individual lots or all lots as required. Lots can also be used to split a contract into geographical areas where it may be unreasonable to assume one supplier could meet the requirement over a large geographical area within the required timelines e.g. patient transport contracts.

	When using CSS or other frameworks, always ensure the supplier you use is specified in the appropriate Lot.
MoA (Memorandum of Agreement)	This document can stand as a short-form contract that refers to, rather than stating, all the terms and conditions of the agreement.
Mol (Memorandum of Information)	A document used during a tendering process to give background information on a requirement, and any detail about the process, the approach, the current situation and the timescales that bidders may need to know in order to bid effectively.
NHS Commercial Solutions	Formerly the South East Coast Collaborative Procurement Hub, a regional collaborative procurement organisation providing Framework Agreements, procurement support, bespoke tenders, benchmarking, consultancy and other support services to NHS organisations in the South of England.
NHS Supply Chain	Formerly NHS Logistics, this organisation provides medical and non-medical consumables through a national contract and catalogue, and frameworks and contracts for other Capital Equipment, medical services and equipment available Nationally.
NDA (Non-Disclosure Agreement)	This document, also known as a Confidentiality Agreement, is designed to prevent parties involved in a particular process/tender/change from disclosing any information pertinent to that process/tender/change to either other involved parties or to third parties.
OJEU (Official Journal of the European Union) Notice	This is the portal via which all European tenders are advertised. Goods and Services tenders over the EU Threshold (unless they are exempt) must be advertised here.
Penalty (Financial)/Liquidated damages	The primary remedy for breach of contract in English Law is damages to compensate the innocent party for the losses it suffers as a consequence of the breach. Clauses designed to deter parties from breaching a contract by penalising poor performance (known as penalty clauses) are unenforceable under English law. On the other hand, clauses providing for payment of a pre-determined sum by way of compensation for a breach of contract (known as liquidated damages clauses) are generally enforceable.
PPQ (Pre-Purchase Questionnaire)	This is typically for EBME (Electrical and Bio-Mechanical Equipment) types of equipment, and is designed to ensure that all the warranty, maintenance, parts and quality standards required are in place prior to placing the order.
Purchase Order (PO)	An official offer document issued by the buyer electronically to a supplier, which sets out the requirement - type, quantity and agreed price - for their goods or services.

Rental Agreement	<p>Not to be confused with a lease, this type of contract is such that the equipment being offered remains the property of the supplier. This type of 'purchase' usually includes maintenance and may include consumables.</p> <p>In the case of Multi-Functional Devices (MFDs – or Photocopiers) there will be an overarching contract that sets out the general terms of the agreement (charges, inclusions and exclusions etc.) but each individual machine will have its own specific Rental Agreement, with a specific period depending on when it was delivered, its specification (does it need Colour, faxing etc.) and its usage.</p>
Requisition	<p>A formal request for the supply of something (goods or services) raised through the electronic procurement system (iproc), which then goes through an approval process. Once approved it will be converted in to a Purchase Order.</p>
Residual Value	<p>A Residual Value is a term used for Lease Agreements. The Residual Value is a forecasted depreciated value of your asset at the end of your Lease term.</p>
Selection Criteria	<p>This term refers to the criteria used to assess the qualification stage of a tender process to select suitably capable companies who have the necessary experience and capacity to take through to the ITT stage of the tender, and must be distinct from the Award Criteria for a contract. For example 'Previous Experience' is considered a Selection Criterion because it asks for a general response relating to other contracts (and the supplier in general), and not relating to the specification of the Trust's requirement as this will inform the Award Criterion.</p>
Standard Selection Questionnaire (SQ)	<p>This is a stage of the tender, designed to assess a company that submits an Expression of Interest (see above). It will evaluate their financial capacity and technical capability in general as an organisation, i.e. do they have the processes in place, the facilities, equipment and estate to satisfy the contract, are they experienced in this line of work, etc. It will also check whether there are any conflicts of interest, fraud, links with organised crime etc. that may mean they are excluded from the tendering process. At this stage only past experience can be assessed and questions cannot be asked about how they will perform/deliver going forward eg. How do you propose to resource this contract.</p> <p>Guidance can be reviewed in Procurement Policy note 8/16 Sep 2016 which mandates the use of a Standard Selection Questionnaire.  <a href="https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template">https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template</a></p>

SLA (Service Level Agreement)	This is another form of agreement, usually relating to Services Contracts, in which there are deliverables that must meet a given standard (of quality, response time etc.). As with any other agreement it refers to, or states, the overall conditions of contract, as well as specifying the standards/levels required, KPIs and any recourse or recompense the Trust can implement. This would often sit under a Contract or Framework Agreement, which sets out the general provisions, and acts as a means of specifying the particulars of an individual agreement between two parties.
Single Waiver of Trust SFIs Formerly Single Tender Waiver(STW)	The SFIs include a section on when it is and is not appropriate to waive (avoid/bypass) the need for a competitive procurement process. When considering a waiver it is important to ensure that the justification is evidenced and defensible and that the value of the waiver is correct and represents the entire business. If in doubt it is better to go to a competitive quote/tender.
Standstill Period	The Standstill Period is a cooling-off period between the outcome of an OJEU tender or further competition being notified to all the bidders (via an Intention To Award Letter), and the conclusion of the contract/Award. It is mandatory for all high value EU tenders (a minimum of 10 calendar days), and is often called for in National Framework further competitions. This is the opportunity for the unsuccessful bidders to appeal the decision. If the Standstill Period has not been included, and the Trust moves directly to awarding the contract, this can be challenged in court, and may result in a large fine to the trust and the award being overturned/delayed.
Sub-central Authorities	All other public organisations not listed on Schedule 1 of the 2015 Regulations would be considered to be Sub-Central Contracting Authorities.
Total contract expenditure	<p>In order to assess whether a procurement is likely to exceed the EU Thresholds, we look at the total contract value, including any extension periods. For example, if a service is going to cost £50,000 per annum and the contract is to run for 4 years with an option to extend for a further 2 years, the total contract value will be £50,000 x 6 = £300,000 which exceeds the EU threshold.</p> <p>For lower value procurements, we do need to be mindful of the contract length and the total contract value as that will impact on the process adopted.</p>

UK Procurement Regulations	<p>Public procurement law regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the EU's public procurement market to competition, to prevent "buy national" policies and to promote the free movement of goods and services.</p> <p>The EU procurement regime, based on the Treaty principles of transparency, non-discrimination, equal treatment and proportionality and described by the Public Contracts Directive and Regulations referred to in this guidance, is not static. It is subject to change, driven by evolving European and domestic case law, European Commission communications, new and revised Public Contracts Directives and amendments to the existing UK Regulations.</p>
Weighting Criteria	<p>This is a way to demonstrate the relative importance of award and selection criteria, and gives the suppliers an understanding of what is important to the Trust. For example if Quality is 60% of the final score, and Price is 40%, this sends a message to indicate that meeting or exceeding the technical/clinical specification requirements is more important. The Weighting Criteria are often split further into categories or even individual questions. Each one will have a Weighting which then gives the supplier an understanding of which parts of the Quality criterion are comparatively more important.</p>
Whole Life Costing (Life cycle costing)	<p>This expresses the Total Cost of Ownership of an item when requesting a quote or tendering a price. This means more than the price of the item itself. Consider purchase price, running costs, maintenance, upgrades, installation, consumable costs, repairs, disposal costs, life expectancy etc.</p>
Works contract	<p>A contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property.</p>

## APPENDIX D: TRUST SCHEME OF DELEGATION

### DETAILED SCHEME OF DELEGATION – SUMMARY OF FINANCIAL LIMITS

Delegated matters in respect of decisions which may have a far reaching effect must be reported to the Chief Executive. **The delegation shown below is the lowest level to which authority is delegated.** Delegation to lower levels is only permitted with written approval of the Chief Executive who will, before authorising such delegation, consult with other senior managers as appropriate. All items concerning Finance must be carried out in accordance with Standing Financial Instructions and Standing Orders. “Director” means Executive Director, or the Director responsible for the function (e.g. Director of Business Development). It does not include Assistant / Deputy Director posts.

Capital			
Approval of capital plan	Approval by the Board (via the Finance & Commercial Group and Finance Committee)		
Allocation and virement to individual programmes within the overall agreed budgetary allocation	Finance & Commercial Group agree all allocations, report to Board as appropriate		
Business Case Approval	Approval by Board >£3m	Finance Committee Between £500k and up to £3m For cases: • ≥ £500k sign off by the DOF required prior to presentation for approval to the Finance Committee	Finance & Commercial Group Up to £500k For cases: • ≥£250k < £500k sign off by the Deputy DOF required prior to presentation for approval at the Finance & Commercial Group
Payment Approval	CEO any £value	Director of Finance any £value	Deputy Director of Finance up to £250k
NHS Improvement Approval	For IT, leased equipment, leased property, managed equipment and managed service schemes the delegated limits apply to the whole life costs, not just capital costs. Schemes with whole life costs in excess of NHS Trust delegated limits will require NHSI approval in line with the delegated limits outlined below. For all business cases over £15m and up to £50m relating to IT, leased equipment, property leases, managed equipment and managed service contract business cases, Capital Investment Group approval is required. <i>(In accordance with NHS Improvement Capital regime, investment and property business case approval guidance for NHS trusts and foundation trusts –November 2016)</i>		

	<ul style="list-style-type: none"> <li>• All trusts have delegated authority to approve capital investment business cases up to £15m</li> <li>• £15m to £30m – NHS Improvement executive director of resources/deputy chief executive or NHS Improvement director of Finance and then DH</li> <li>• £30m to £50m - NHS Improvement Resources Committee and then DH</li> </ul>
DH Approval	Approval required on cases over £50m – NHS Improvement Resources Committee, NHS Improvement Board, DH, HM Treasury

Tendering and quotations(*subject to the terms of any contract with the Integrated Supply Chain)					
Formal quotes	Between £5k and £50k				
Formal Tender	Over £50k				
OJEU	Subject to current limits				
Tender Approval					
	Chairman and CEO (and then report to Board)	CEO	DoF (or nominated deputy)	Other Executive Directors	Others
Lowest	Over £3m	Up to £3m	Up to £3m	Up to £3m	Up to 50k
Not the Lowest	Over £3m	Up to £3m	Up to £250k		
Single Tender	Over £3m (and notify Audit and Corporate Risk Committee)	Up to £3m (and notify Audit and Corporate Risk Committee)	Up to £250k (and notify Audit and Corporate Risk Committee)		Deputy DoF up to £250k (and notify Audit and Corporate Risk Committee)

Revenue Expenditure			
Revenue Plan	Approval by the Board (via Finance & Commercial Group and Finance Committee)		
Virement between cost centres within overall service line or corporate functional budget	CEO any £value	Over £250k Director of Finance / Deputy DOF approval required	Service Line Operational Directors and Corporate Associate Directors up to £50k for any one transaction (and Executive Directors for their respective areas).
Proposed changes that increase overall planned levels	Approval by Board >£3m	CEO any £value	Over £250k Director of Finance / Deputy DOF approval required
Business Case Approval	Approval by Board >£3m	Finance Committee Between £500k and up to £3m For cases: <ul style="list-style-type: none"> <li>• ≥ £500k sign off by the DOF required prior to presentation for approval to the Finance Committee</li> </ul>	Finance & Commercial Group Up to £500k (All business cases requiring investment to be presented) For cases: <ul style="list-style-type: none"> <li>• ≥£250k &lt; £500k sign off by the Deputy DOF required prior to presentation for approval at the Finance &amp; Commercial Group</li> </ul>
NHS Improvement Approval	<p>For IT, leased equipment, leased property, managed equipment and managed service schemes the delegated limits apply to the whole life costs, not just capital costs. Schemes with whole life costs in excess of NHS Trust delegated limits will require NHSI approval in line with the delegated limits outlined below.</p> <p>For all business cases over £15m and up to £50m relating to IT, leased equipment, property leases, managed equipment and managed service contract business cases, Capital Investment Group approval is required. <i>(In accordance with NHS Improvement Capital regime, investment and property business case approval guidance for NHS trusts and foundation trusts –November 2016)</i></p> <ul style="list-style-type: none"> <li>• All trusts have delegated authority to approve capital investment business cases up to £15m</li> <li>• £15m to £30m – NHS Improvement executive director of resources/deputy chief executive or NHS Improvement director of Finance and then DH</li> <li>• £30m to £50m - NHS Improvement Resources Committee and then DH</li> </ul>		
DH Approval	Approval required on cases over £50m – NHS Improvement Resources Committee, NHS Improvement Board, DH, HM Treasury		



New contracts/Contract Renewals/ Novations / Extensions / Terminations/Variations (Annual Value of change) (Over £50k will have been tendered)			
Awarding /terminating contracts and signing contracts (where Solent is the commissioner) *	Approval by Board >£3m Signed by CEO / DOF	Approval >£500k to £3m by Finance Committee Signed by DOF / any of the Executive Team	Approval >£50k to £500k by Finance & Commercial Group Signed by any of the Executive team (Up to £50k – approved by Operational Director of service or equivalent (i.e. Corporate Associate Director or, where nominated by the relevant executive Director, Head of Service/corporate area) and signed by any of the Executive team or Head of Commercial)
Contract Approval/ termination and signing of documents (where Solent is the provider)	Approval by Board >£3m (Signatures – CEO/ DOF)	Approval >£500k to £3m by Finance Committee Signed by DOF / any of the Executive Team	Approval >£50k to £500k by Finance & Commercial Group Signed by any of the Executive team (Up to £50k – approved by Operational Director of service or equivalent (i.e. Corporate Associate Director or, where nominated by the relevant Executive Director, Head of Service/corporate area) signed by any of the Executive team or Head of Commercial)
Contract under seal approval	(All seals report to Board via CEO Report)	CEO / DoF approval	(For capital contracts – seals must come via recommendation of Director of Infrastructure)
NHS Improvement Approval on managed service contracts	<p>For IT, leased equipment, leased property, managed equipment and managed service schemes the delegated limits apply to the whole life costs, not just capital costs. Schemes with whole life costs in excess of NHS Trust delegated limits will require NHSI approval in line with the delegated limits outlined below.</p> <p>For all business cases over £15m and up to £50m relating to IT, leased equipment, property leases, managed equipment and managed service contract business cases, Capital Investment Group approval is required.</p> <p><i>(In accordance with NHS Improvement Capital regime, investment and property business case approval guidance for NHS trusts and foundation trusts –November 2016)</i></p> <ul style="list-style-type: none"> <li>• All trusts have delegated authority to approve capital investment business cases up to £15m</li> </ul>		

	<ul style="list-style-type: none"> <li>• £15m to £30m – NHS Improvement executive director of resources/deputy chief executive or NHS Improvement director of Finance and then DH</li> <li>• £30m to £50m - NHS Improvement Resources Committee and then DH</li> </ul>		
DH Approval on managed service contracts	Approval required on cases over £50m – NHS Improvement Resources Committee, NHS Improvement Board, DH, HM Treasury		
Letter of intent	Approval by Board >£3m Signed by CEO / DOF	Approval >£500k to £3m by Finance Committee Signed by DOF / any of the Executive Team	Approval >£50k to £500k by Finance & Commercial Group Signed by Chair/ Deputy Chair of Group (Up to £50k – signed by Operational Director / Corporate Associate Directors)
Issuing contracts of employment and deployment of agency staff	CEO / DOF / Chief People Officer / Recruiting Manager		
Waiver of Tenders and quotations	CEO / DOF (Report to Audit & Risk Committee)	Deputy DoF up to £250k (Report to Audit & Risk Committee)	

\*Contract variations to specification only with no tenure or value change can be signed by the Director of Strategy or in their absence any Executive Team member (no presentation at Committee required). Lease variations with no tenure or value change can be signed by the Director of Infrastructure or in their absence any Executive Team member (no presentation at Committee required).

No commitments should be made via email.

## Delegated financial limits for budget holders

Level	Staff with authority	Requisitions		Invoices - limit (£000)	Credit Notes
		Purchase orders – limit (£000)	Non purchase orders – limit (£000)		
1	Chief Executive	Any amount over 250	Any amount over 250	Any amount over 250	Any amount
2	Director of Finance & Associate Director of Finance				
3	Level 1 Management Other Executive Directors, and Associate Director of Finance and Financial Controller	250	250	250	Financial Controller only – up to 250K
4	Level 2 Management Service Line Operational Directors and Corporate Associate Directors	50	50	50	Up to 50k
5	Level 3 Management senior managers, Heads of Department	20	20	20	Financial Services Manager up to 20k
6	Other budget holders	5	5	5	



# CIPS Code of Conduct

The purpose of this code of conduct is to define behaviours and actions which CIPS members must commit to maintain as long as they are members of CIPS.

AS A MEMBER OF CIPS, I WILL:		USE OF THE CODE
<p><b>Enhance and protect the standing of the profession, by:</b></p> <ul style="list-style-type: none"> <li>never engaging in conduct, either professional or personal, which would bring the profession or the Chartered Institute of Purchasing &amp; Supply into disrepute</li> <li>not accepting inducements or gifts (other than any declared gifts of nominal value which have been sanctioned by my employer)</li> <li>not allowing offers of hospitality or those with vested interests to influence, or be perceived to influence, my business decisions</li> <li>being aware that my behaviour outside my professional life may have an effect on how I am perceived as a professional.</li> </ul>	<p><b>Promote the eradication of unethical business practices, by:</b></p> <ul style="list-style-type: none"> <li>fostering awareness of human rights, fraud and corruption issues in all my business relationships</li> <li>responsibly managing any business relationships where unethical practices may come to light, and taking appropriate action to report and remedy them</li> <li>undertaking due diligence on appropriate supplier relationships in relation to forced labour (modern slavery) and other human rights abuses, fraud and corruption</li> <li>continually developing my knowledge of forced labour (modern slavery), human rights, fraud and corruption issues, and applying this in my professional life.</li> </ul>	<p><b>Members of CIPS worldwide are required to uphold this code and to seek commitment to it by all the parties they engage with in their professional practice.</b></p> <p>Members should encourage their organisation to adopt an ethical procurement and supply policy based on the principles of this code and raise any matter of concern relating to business ethics at an appropriate level within their organisation.</p> <p>Members' conduct will be judged against the code and any breach may lead to action under the disciplinary rules set out in the Institute's Royal Charter. Members are expected to assist any investigation by CIPS in the event of a complaint being made against them.</p>
<p><b>Maintain the highest standard of integrity in all business relationships, by:</b></p> <ul style="list-style-type: none"> <li>rejecting any business practice which might reasonably be deemed improper</li> <li>never using my authority or position for my own financial gain</li> <li>declaring to my line manager any personal interest that might affect, or be seen by others to affect, my impartiality in decision making</li> <li>ensuring that the information I give in the course of my work is accurate and not misleading</li> <li>never breaching the confidentiality of information I receive in a professional capacity</li> <li>striving for genuine, fair and transparent competition</li> <li>being truthful about my skills, experience and qualifications.</li> </ul>	<p><b>Enhance the proficiency and stature of the profession, by:</b></p> <ul style="list-style-type: none"> <li>continually developing and applying knowledge to increase my personal skills and those of the organisation I work for</li> <li>fostering the highest standards of professional competence amongst those for whom I am responsible</li> <li>optimising the responsible use of resources which I have influence over for the benefit of my organisation.</li> </ul>	
	<p><b>Ensure full compliance with laws and regulations, by:</b></p> <ul style="list-style-type: none"> <li>adhering to the laws of countries in which I practise, and in countries where there is no relevant law in place I will apply the standards inherent in this Code</li> <li>fulfilling agreed contractual obligations</li> <li>following CIPS guidance on professional practice.</li> </ul>	
		<p><b>CONTACT US</b></p> <p>UK: +44 (0)1780 756777                  Africa: +27 (0)12 345 6177                  Australasia: +61 (0)3 9629 6000                  MENA: +971 (0)4 311 6505                  Singapore: +65 6808 8721                  +65 6808 8722</p> <p>Email: <a href="mailto:info@cips.org">info@cips.org</a></p>

This code was approved by the CIPS Global Board of Trustees on 10 September 2013.

[www.cips.org](http://www.cips.org)