

South West London CCG Contract and Procurement Policy

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Equality Analysis	<p>EQUALITY ANALYSIS</p> <p>This Policy is applicable to the Governing Body, every member of staff within the CCGs and those who work on behalf of the CCG. This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010.</p> <p>This document demonstrates NHS SWL CCG commitment to create a positive culture of respect for all individuals, including staff, patients, their families, and carers as well as community partners.</p> <p>The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 and to promote positive practice and value the diversity of all individuals and communities.</p>
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1 Introduction

- 1.1 The NHS in South West London is working on a long-term plan to transform local health services for both emergency and planned hospital care, primary and community services, cancer, and mental health.
- 1.2 The South West London system has an ambitious agenda for improving health services and is implementing one of the largest sustainability and transformation programmes in the NHS, which includes a significant reconfiguration of services across multiple organisations.
- 1.3 The vision for health in South West London, as described in the Sustainability and Transformation Plan (STP) is:

People live longer, healthier lives. They are supported to look after themselves and those they care for. They have access to high quality, joined up health and care services when they need them that deliver better health outcomes and a lower cost of provision to the system.

- 1.4 To support this vision, a single South West London Clinical Commissioning Group (SWL CCG) has been formed to commission high quality, effective and joined up health care for the population of the 6 South West London boroughs (Croydon, Kingston, Merton, Richmond, Sutton, and Wandsworth). The SWL CCG will retain a strong local presence and focus within each of the boroughs whilst working together in key areas across South West London to deliver transformed and sustainable services.
- 1.5 This is also supported via The South West London Health and Care Partnership (SWL HCP) which is comprised of the organisations providing health and care in the six south west London boroughs. As of 30th April, the South West London Health and Care Partnership has formally been designated as an Integrated Care System (ICS), which aims to further strengthen collaboration under an alliance model and agreement.
- 1.6 The CCG has a clear responsibility to ensure procurement and commissioning decisions meet the needs of its population. Services have to be affordable, sustainable and within the limits of the available resources. As such the CCG has a responsibility to ensure that they have a consistent, transparent, and effective approach to the procurement, commissioning and contract management of goods, services and works.

2 Scope of Policy

- 2.1 This policy applies to all staff and members of the CCG Board or its subcommittees, and any third party working in association with, or on behalf of, the CCG. This includes staff on temporary or honorary contracts, appointed representatives acting on behalf of the CCG, staff from member practices and any external organisations (e.g. Commissioning Support Units).
- 2.2 This policy applies to all CCG procurements and contracts (clinical and non-clinical). However, it is particularly relevant to procurement of supplies and services that support the delivery of healthcare and certain sections only relate to procurement of health and social care services.
- 2.3 It applies to all commissioning processes and procurement activity and decision making related to the delivery of healthcare services:
1. the development and approval of specifications for services
 2. determination of which organisations shall provide services
 3. determination of whether a service should be decommissioned
- 2.4 Procurement decisions relating to services provided by GP practices shall be reviewed by local Primary Care Management Groups and submitted to the Primary Care Commissioning Committees for approval. Where the CCG are seeking to directly award a contract to GP practices, safeguards must in be in place to ensure transparency of decision and management of conflict of interest.
- 2.5 Contract management processes, focusing in the CCG's approach to:
- The operating plan and model of the contract teams
 - Identification and clarification of responsibility between contract and commissioning/budget leads.
 - Contract development and appropriate contract forms
 - Contract duration
 - Contract storage and database (electronic and paper)
 - Contract register
 - Contract management including contract review and the contract compliance audit programme
 - Contract signing
 - Reviewing contract outcomes to form the basis of ongoing transformation delivery
- 2.6 Arrangements under which the CCG collaborates with other public bodies (for example under non legally binding memoranda of understanding (MOU)) will not ordinarily constitute public contracts for the purposes of procurement law, but will be subject to the internal approval processes for non-competed expenditure set out in the Standing Financial Instructions and this policy.

3 Policy Statement

3.1 The purpose of this policy is to provide contracting and procurement principles that supports the CCG development of the ICS, whilst still addressing all areas of CCG spend, development and management of contracts for healthcare services and also for the procurement of goods and non-healthcare services. The policy also provides guidance on the process for entering, documenting, reviewing, and exiting contractual arrangements.

The policy seeks to:

- Set out a clear purpose and scope for the policy
- Outline key principles and considerations to be taken into account throughout both the procurement/commissioning and contract cycles
- Confirm responsibilities and how capability will be assured
- Ensure use of robust and consistent contractual terms and conditions
- Outline the basis of decision making and the processes associated with the awarding contracts
- Outline the operating model for the CCG acute and non-acute contracting team to support principle implementation and adherence to the policy.
- Outline the responsibilities and terms of reference for the CCG Contract and Procurement Advisory Group (CPAG) that ensure this policy is being followed
- Provides contracting and procurement procedures, templates, and tools to support the CCG officers
- involved in procurement of goods and services
- Detail how the policy will be reviewed; and
- Reference other relevant and interlinking policies of the CCG.

3.2 The NHS and the wider public sector procurement are subject rules, principles, regulations, and guidance. In procuring services and goods, the CCG will comply with the legislation that governs the award of contracts by public bodies. This includes adherence to:

- Public Contracts Regulations 2015
- NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
- Health & Social Care Act 2012
- The Public Services (Social Value Act) 2012
- The NHS Act 2006 (as amended)
- Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (NHS England, June 2017)
- Transfer of Undertakings and Protection of Employment Regulations (TUPE) 2006
- The Equality Act 2010
- The Bribery Act 2010
- Cabinet Office Public-sector procurement guidance from 1 January 2021 (in relation to Brexit)

- 3.3 The application of this policy will align with the requirements of the South West London Integrated Care System (ICS) in its role as Strategic Commissioner to develop the desired population health and care outcomes for the system.
- 3.4 The ICS will oversee the strategic priorities across the South West London system, including an approach to “best value”, whilst respecting the requirements of the CCG to comply with procurement legislation.
- 3.5 This policy recognises and seeks to support the key objectives of the CCG including to commission a sustainable, affordable, and high-quality NHS. When procuring health care services, the CCG will be required to act with a view to:
- **Securing the needs** of the people who use the services
 - **Improving the quality** of the services
 - **Improving efficiency** in the provision of the services

This will be supported by:

- Ensuring that service specifications will include best practice principles related to economic, social, and environmental factors
 - Working with all partners in the system collaboratively to improve health and care for patients in line with the principles underpinning Integrated care systems.
- 3.6 This policy will outline how decisions to award contracts will be approached, reflecting current regulatory obligations, national policy, and statutory guidance. Furthermore, the principles for contract management will be driven by a policy that adopts good practice, collaboration, maximises financial and operational performance whilst minimising risk.

4 Associated Policies and Procedures

This policy operates alongside and should be read in accordance with the following:

- Constitutions, which include Standing Orders, Standing Financial Instructions, Schemes of Reservation and Delegation and Prime Financial Policies;
- Policy on the Management of Conflicts of Interest;
- Anti-Fraud and Anti-Bribery Policy;
- Raising Concerns (Whistle Blowing) Policy;
- Communication and Engagement Strategy;
- Disciplinary Policy;
- Gifts, Hospitality & Sponsorship Policy.
- NHS England Standing Financial Instructions in so far as they impact on the procurement of GP services under full delegation of the co-commissioning provisions.

5 Application of this Policy

- 5.1 This policy sets out the guiding principles that all staff will follow where they are involved and/or entering into a contract or committing the CCG to any expenditure or monitoring the contract following agreement; they must do so in accordance with this policy and any of the CCG's applicable policies.

The principles below are also considered in the in the context of the CCG's strategic priorities and evolving national guidance, in that the CCG will develop and implement arrangements to enable the contestability and procurement of clinical services:

Principle 1: In making its commissioning decisions it will determine how it will comply with its obligations under PPCC and PCR 2015 in the given factual circumstances.

Principle 2: Where procurement or failure to award a contract to a preferred provider would place other core services at significant risk by impacting on their viability and long-term sustainability, an alternative route to procurement will be sought.

Principle 3: Any decision not to undertake a competitive process in respect of a service award should be supported by clear and transparent evidence to demonstrate which of the "qualifying conditions" have been met in an individual case.

Principle 4: The CCG recognises its leadership role in the development of the local provider market and will work towards supporting the development of a more integrated provider delivery model while preserving local access and patient choice to a sustainable and expanding range of services appropriate to meet the needs of the local population.

Principle 5: The CCG will develop approaches that promote and support personalisation and choice for patients. The CCG will collaborate with other agencies to specify and procure services that address joint health and care needs where appropriate. The CCG will utilise patient experience feedback to influence the ongoing performance management of service providers and procurement decisions.

Principle 6: The CCG recognises the model of "any qualified provider" as offering potential benefit for patients and the CCG. The CCG will consider the appropriateness of an AQP model, assessing the relative benefits to both patients and the CCG in line with regulations, in comparison with other contracting models to determine which may deliver optimum benefit.

Principle 7: The CCG will recognise its contractual obligations and ensure all forms of expenditure is supported with the appropriate contractual documentation. Once an agreement has been sought the CCG will continually monitor and work with the provider or supplier to ensure high quality and value for money is being achieved and that the arrangements for service delivery continue to be satisfactory to both parties.

Principle 8: The contract management approach will be done in a collaborative manner in line with the ICS principles, which aims to share accountability, integration, risk, and support for the benefit of the wider health system. The frequency of monitoring meetings will be done according to the Contract Management Framework in this policy.

Integrated care Systems (ICSs) Principles

In conjunction with the above, the CCG will follow the ICS principles and work towards achieving the system maturity matrix in order to build a strong health and care system across SWL:

System leadership, partnerships and change capability: When it comes to contracting and procurement activities, this will be done with strong collaboration of all partners across the system in a proactive and transparent manner.

System architecture and strong financial management and planning: Ensuring there is value for money and appropriate incentives to support commissioning and health objectives across the system.

Integrated care models: Integration of services and teams will be considered for service models and transformation projects.

Track record of delivery: Robust contract management and engagement to ensure services are being delivered as needed and are demonstrating positive impact on population health outcomes.

Coherent and define population: Developing services that respect patient flows across SWL as a system whilst promoting patient choice and standard availability.

Review of Principles

As the ICS landscape in SWL develops, the principles set out under this policy will be reviewed every 6 months and amended, as necessary. These will go to the Audit committee for sign-off and finance committee will have oversight and provide recommendations as and when needed.

6 Accountabilities and Responsibilities

Individual responsibilities are described within the CCG's Constitution. Committees, and those in particular to procurement and contracting are below:

6.1 The CCG Governing Body

The Governing Body, and all Committees of the Governing Body, are responsible for setting the approach for facilitating open, transparent, and fair, proportionate procurement processes and ensuring procurement decisions and procurement processes are in accordance with this policy.

6.2 Borough in Committee Meetings (CiC)

The Committee is formally constituted by and is accountable (through the elected GP Chair) to the Governing Body to make decisions according to the Scheme of Reservation and Delegation. Under its delegated powers it must make commissioning decisions on behalf of the Governing Body, which are safe, timely, personalised, recovery focused and sustainable, which meet the needs for and on behalf of the local population within the available resource.

6.3 Primary Care Commissioning Committee

The Primary Care Commissioning Committee is responsible for approving procurement decisions where GP practices are providers.

6.4 Audit Committee

The Audit Committee is responsible for integrated governance, audits, risk management and internal control. This includes ensuring compliance with competition waiver processes.

6.5 Finance Committee

The Finance Committee oversees the arrangements in place for the allocation of resources and the scrutiny of all expenditure. This includes the approvals of competition waiver in line with SFIs.

6.6 Procurement Lead

This policy is maintained and owned by the Contracts and Procurement Advisory Group (CPAG), who is responsible for:

- Ensuring that the principles of good procurement practice are embedded within the CCG
- Monitoring legislation and incorporating any significant policy or procedural developments, or as required by statutory or mandatory requirements
- Reviewing and updating the policy as a minimum on an annual basis following an approved change control process
- Identification of risks associated with direct award of contracts without competition
- The review and sign-off for procurement exemptions in line with Standing Financial Instructions, prior to scrutiny by the Audit and Governance Committees.

6.7 CCG Staff

All of the CCG officers are responsible for complying with this procurement policy and associated procedures. All CCG staff shall:

- Only procure goods, services, and works on behalf of the CCG
- Only procure goods, services, and works in accordance with the CCG's Scheme of Financial Delegation. In instances where staff are unsure about a course of action, then they should seek advice and guidance CPAG.

6.8 Authority

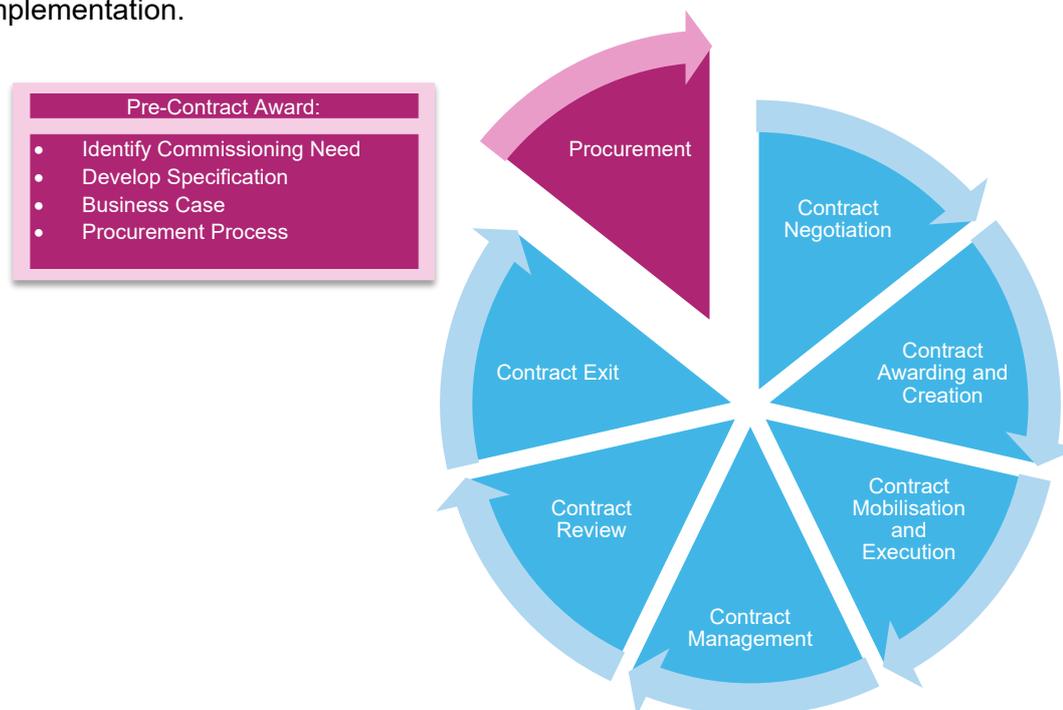
The CCG is accountable for the purchase of goods and services in relation to any commissioned health services for which it is responsible and its own operation and management needs; specifically:

- Any proposed market intervention and any associated procurement route
- The approval of any specifications or service models directly affecting its respective requirements or that of the local population
- The evaluation criteria used for the procurement of goods or services
- Signing off decisions on which providers to invite to tender; and
- Making final decisions on the selection of the provider.
- Arrangements for delegation of authority to officers are set out in the relevant Scheme of Reservation and Delegation, and Prime Financial Policies / Detailed Financial Policies.

6.9 In the event of any discrepancy between this policy and the relevant Scheme of Reservation and Delegation, and Prime Financial Policies / Detailed Financial Policies, the Scheme of Reservation and Delegation, and Prime Financial Policies / Detailed Financial Policies will take precedence.

7 Practical Implementation and Process for Procurements

7.1 The commissioning cycle and contract life cycle management is the strategic roadmap that needs to be followed to support the delivery of an on-going programme of procurement and contract management activity. As demonstrated below, the CCG will follow a number of processes and undertake a range of measures to enable practical implementation.



7.2 Service Review and Identification of Need

There will be an ongoing programme of service review and development to ensure the commissioned services meets the health needs of the population. This will be done in line with the NHS Long-Term Plan which sets out the ambition for regions to work as integrated care system.

Therefore, when developing service requirements, the principle will be that the CCG will work with the relevant organisations in the South West London health and care system to join forces, so they are better able to improve the health of their populations and offer well-coordinated efficient services to those who need them.

Any engagement will be done transparently and in a non-discriminatory manner, so that it is entirely lawful and consistent with procurement regulations. Potential procurement issues and / or conflict of interests will be prevented by ensuring that transformation leads do not engage selectively with only certain providers or types of providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid.

7.3 Investment Review and Sign-Off

All requests for investments must be supported by a business case. The authorisation of the investment recommendation is subject to the following approval route in accordance with the CCGs' Schemes of Reservation and Delegation and Standing Orders.

Delegated Matter	Authority Delegated To
Estimated annual cost up to £100,000	CCG Executive Directors / Locality Executive Directors
Estimated annual cost from £100,001 - £500,000	Accountable Officer or CFO
Estimated annual cost from £500,001	Governing Body

7.4 Procurement Approach

For all of the CCGs' own operation and management needs and to assure the delivery of goods and services, the CCG shall adopt a procurement approach in compliance with their obligations under procurement legislation and the other applicable legislation.

This will be facilitated by the Contract and Procurement Advisory Group (CPAG) who will assist to consider, risk assess and recommend the most appropriate route of procurement and processes. This will have regard the principled-based approach set out in procurement regulations with a view to improving the quality and efficiency in the provision of NHS health care services and with a view to:

- Where appropriate, providing services in an integrated way
- Enabling providers to compete to provide the services
- Allowing the patients a choice of provider of the services
- Encouraging innovation and development.
- Promoting quality and best value

Market Assessment

In order to support on-going procurement and contestability activities, the CCG will hold a comprehensive knowledge of the current configuration, capacity, and competence of the existing provider market. Areas where change is required, either because of an absence of service provision, poor performance or limited choice for patients, will be identified and proactively addressed.

Stakeholder Engagement

The CCG recognises that effective engagement with stakeholders is an essential requirement for all NHS organisations and will offer benefits to the generation of outcome-based service specifications. The CCG will engage with stakeholders at appropriate times during the commissioning and procurement process. Stakeholder engagement with new and existing providers, members of the public, clinicians and other service users will occur at key points in the service review and procurement process. Any potential conflict of interest issues that arise during the engagement process need to be managed in accordance with the CCG's Conflict of Interest policy.

Where stakeholder involvement is required, consideration will be given as to what is fair and proportionate in relation to the circumstances of the procurement. For the benefits of this policy and in line with the CCG's guidance, the terms 'involve', and 'involvement' are used interchangeably with 'engagement', 'participation', 'consultation' and 'patient

and public voice'. It is recognised that there are many different ways to involve patients and different approaches will be assessed as appropriate depending on the nature of the procurement activity.

Transparency

The CCG shall ensure that its commissioning intentions are based on local health needs and reflect evidence of best practice – securing 'buy in' from local stakeholders to the clinical case for change.

Its documentation shall support transparency by detailing the approach to be taken at every stage in the commissioning cycle so that a clear audit trail is evident.

The CCG will secure expert advice and engage with providers when necessary, by facilitating early engagement with both incumbent and potential new providers over potential changes to the services commissioned for a local population. The CCG will invite engagement using the lawfully mandated national online portal, Contracts Finder, and where the PCR 2015 require, the Official Journal of the European Union (OJEU).

When testing the market for potential providers of services and when initiating a procurement process to invite expressions of interest, tenders, or applications to an Any Qualified Provider framework, the CCG will ensure compliant notices are published on Contracts Finder and where required by the PCR 2015, on OJEU.

The CCG will create clear and transparent commissioning specifications that reflect the depth of engagement and set out the basis on which any contract will be awarded.

Communications

The CCG will develop and implement a communications plan to explain any new arrangements to the health market as well as local public forums and organisations.

Brexit

The European Union (Withdrawal) Bill seeks to replicate the substance of existing EU law into domestic law. As such the applicability of procurement regulations and as such this policy will remain post Brexit.

The only practicable change is that UK public procurement notices will no longer be required to be published via the Official Journal of the European Union, from 1st January 2021 public procurement notices are to be published through Find a Tender.

The Public Services (Social Value) Act 2012 (the "Social Value Act")

The Public Services (Social Value) Act 2012 (the "Social Value Act") applies to the CCG when carrying out procurements for public service contracts. In accordance with obligations under the Social Value Act the CCG will, where practical considering clinical need and urgency, consider the following questions in advance of procurement:

- how the services to be procured may improve the social, environmental, and economic wellbeing of its area; and

- how in conducting a procurement process the CCG might act with a view to securing that improvement, including whether to undertake a consultation on these matters.

<http://www.legislation.gov.uk/ukpga/2012/3/enacted>

7.5 Procurement Route

The procurement route to be used in relation to each contract shall be determined by the contract value. The contract value of each contracting opportunity must be a genuine pre-estimate of the total contract value (i.e. three-year contract of £50,000 per year = total contract value of £150,000). Contract values must not be deliberately split/disaggregated to avoid the need to consider competition.

In order to comply with the procurement regulations, and to ensure equity to all sectors, the CCGs will ensure full compliance with the following procurement thresholds:

Contract Value (over the full term of the contract)	Goods/Services/Works
Less than £20,000	2 Verbal quotes, however no formal process is required although best value for money should be sought at all times and purchases should be from a reputable source. CPAG to have oversight with advice sought from local contract leads or CPAG directly if required.
Between £20,000 and £75,000	A minimum of three quotations must be sought. Quotations should be in writing but not subject to formal receipt process and can be posted or emailed. CPAG to have oversight with advice sought from local contract leads or CPAG directly if required.
Between £100,000 and the Public Contract Regulation Threshold applicable at the time. <i>(As at 1 April 2020, Supplies/ Services Value = £189,330 Works =£4,733,252)</i>	A minimum of three tenders must be sought. All opportunities must be advertised on the Contracts Finder Procurement Portal. Tender process to be conducted using an e-tendering platform. Sign-off must be sought from CPAG beforehand.
Equal to or above the Public Contract Regulation Threshold applicable at the time. <i>(As at 1 April 2020, Supplies/ Services Value = £189,330 Works =£4,733,252)</i>	Compliance with the Public Contract Regulations 2015. Sign-off must be sought from CPAG beforehand.

Contract Value (over the full term of the contract)	Commissioned Healthcare Services
Less than £20,000	<p>2 Verbal quotes, however no formal process is required although best value for money should be sought at all times and purchases should be from a reputable source.</p> <p>CPAG to have oversight with advice sought from local contract leads or CPAG directly if required.</p>
Between £20,000 and £75,000	<p>A minimum of three quotations must be sought.</p> <p>Quotations should be in writing but not subject to formal receipt process and can be posted or emailed.</p> <p>CPAG to have oversight with advice sought from local contract leads or CPAG directly if required.</p>
<p>Between £100,000 and the Public Contract Regulation Threshold applicable at the time.</p> <p><i>(As at 1 April 2020 = £663,540)</i></p>	<p>Subject to competitive tendering process in order to demonstrate the application of the principles of transparency, openness, equal treatment, proportionality, and the delivery of value of money to secure the needs of health care service users.</p> <p>The provisions of the 2013 Regulations must be observed.</p> <p>Sign-off must be sought from CPAG beforehand.</p>
<p>Equal to or above the Public Contract Regulation Threshold applicable at the time.</p> <p><i>(As at 1 April 2020 = £663,540)</i></p>	<p>Compliance with the Light Touch Regime of the 2015 Regulations and the 2013 Regulations.</p> <p>Sign-off must be sought from CPAG beforehand.</p>

Wherever possible the CCG should procure supplies and services through NHS and Public Sector Contracts and Framework Agreements. Such contracts provide the CCG with a compliant procurement route through direct award or through mini competition provided under the framework conditions.

The CCG must adhere to NHS England Policy and Guidance for procurement of Management Consultancy Services and Agency Staff.

All procurement processes must have the relevant governance process sign off before commencement and the contract award must be authorised in accordance with the CCGs' Scheme of Reservation and Delegation.

7.6 Single Tender Waivers

Single Tender Waivers (STW) could be applied to the purchase of goods, the direct award of contract for a new service and the extension of an existing contract where there is no provision for extension.

The waiving of competitive tendering procedures should be done in a timely manner and not be used to deliberately avoid competition, or for administrative convenience, or to award further work to a provider originally appointed through a competitive procedure where this would breach the procurement regulations. In the event that CCG officers have a requirement to consider a direct award they should seek advice and guidance from CPAG before committing the CCG to enter into a contract arrangement or to commit a CCG to expenditure.

Where a CCG's officer wishes to apply for an exemption, they shall do so in accordance with the CCG's Standing Financial Instructions or Prime Financial Policies:

- Tender waiver's below £100,000 to be approved by the Accountable Officer and Chief Finance Officer and reported to the Audit Committee.
- Tender waiver's above £100,000 to be approved by the Finance Committee and reported to the Audit Committee.

All decisions arising from an approved Competition Waiver will be reported to the CCG Audit Committee. Waivers can be requested in the following circumstances:

- Very exceptional circumstances where the Accountable Officer decides that formal tendering procedures would not be practicable, and the circumstances are detailed in an appropriate CCG Committee record.
- Specialist expertise/product is required and is available from only one source.
- The task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging a different provider 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.
- The provision of legal advice and services providing that any legal firm or partnership commissioned by the CCG 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.
- A consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members.
- The timescale genuinely precludes competitive tendering. **It is important to note**

that failure to plan the work properly would not be regarded as a justification for a single tender.

Where a request for STW is made relating to a proof of concept or pilot project, the waiver request must include details of the process and timeline for the proof of concept evaluation including exit plan if service does not continue.

The CCG will require assurance about potential providers and are required to undertake a due diligence process proportionate to the nature and value of the contract. Where this applies to a direct award or material contract variation, financial and quality assurance checks of suppliers and providers will be expected to be undertaken before entering into a contract which will assess the suitability of the provider using the following criteria:

- Financial viability
- Economic standing
- Corporate social responsibility
- Clinical capacity and capability (where applicable)
- Clinical governance (where applicable)
- Quality/accreditation
- Compliance with the Public Sector Equality Duty

The process and required template are covered under [Appendix C – Single Tender Waiver Form](#) and [Appendix D – Single Tender Process](#)

7.7 Collaborative Procurement

Where there is clinical, quality, financial or process benefits to be obtained, the CCG should consider the option of joint commissioning with other health or local authority commissioners.

Where procurement is the subject of joint commissioning between several commissioners, or with local authority partners, decision-making must be consistent with the contents of this policy.

When a procurement process is the subject of joint commissioning with the Local Authority, Local Authorities are subject to the same legislative frameworks (Public Contract Regulations and European Union Procurement Directives), but may not be required to comply with NHS specific guidance and regulations: this will be considered and any issues arising from any differences will be clearly articulated in any joint procurement decision.

7.8 Grant Agreements

Grants can be used to provide financial support to a voluntary organisation which provides or arranges for the provision of services which are similar to those in respect of which the CCG has statutory functions.

The CCG will only enter into a Grant Arrangement if the following conditions are met.

- The organisation is a voluntary sector organisation with charitable status

- The organisation has made or intends to make a formal application for grant funding
- The service being provided not part of the services that the CCG is statutory required to commission
- The service being provided either complements or similar to the services that the CCG is statutory required to commission?
- The CCG is not requiring the delivery of a service and is only contributing towards funding for the activities of a voluntary organisation
- The grant funding an economic and effective use of resources

Grant arrangements will not be used as the mechanism to avoid competitive tendering or providing justification for a single tender and will be approved in accordance with the CCG's Standing Financial Instructions or Prime Financial Policies

7.9 Expert Procurement Support

The CCG should consider the range of collaborative procurement support services available from NEL Commissioning Support Unit where they offer potential financial and process benefits to the CCG.

7.10 Sustainable Procurement

The NHS is a major employer and economic force across the CCG's region. The CCG recognise the impact of its purchasing and procurement decisions on the regional economy and the positive contribution it can make to economic and social regeneration.

The CCG is committed to the development of innovative local and regional solutions, and will deliver a range of activities as part of its market development plan to support this commitment.

Wherever it is possible and does not contradict or contravene the CCG's legal obligations, the CCG will work to develop and support a sustainable local health economy.

7.11 Equality and Quality Impact Assessment

All public bodies have statutory duties under the Equality Act 2010. The CCG aims to design and implement services, policies and measures that meet the diverse needs of their service users, population, and workforce, ensuring that none are placed at a disadvantage over others. When any change to services is to take place a full Equality and Quality Impact Assessment (EQIA) must be carried out prior to the change within the service.

All Business Cases relating to commissioning investment/disinvestment decisions will include EQIAs.

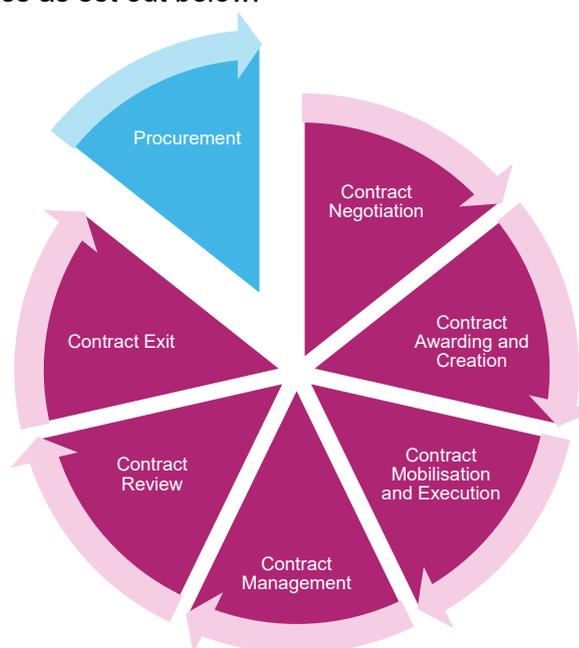
7.12 Conflicts of Interest

Throughout the procurement process, the CCG will ensure that potential conflicts of interests are effectively managed as part of procurement activity in accordance with the CCG's Conflict of Interest Policy.

The CCG notes the publication by NHSE on 16 June 2017 (updated 15 August 2018) of updated Statutory Guidance on Managing Conflicts of Interest for CCGs. The CCG will both implement and adhere to this guidance and any updates to said guidance.

8 Practical Implementation and Process for Contracts and Monitoring

Upon completion of any procurement activity, the CCG will follow the contract life cycle management process and principles as set out below:



8.1 Contract Negotiation

The CCG will enter into negotiations with other potential suppliers or partner organisations in a collaborative and transparent manner regardless of the procurement route taken. This will be done pre and/or post contract award, depending on the procurement route taken.

Where a formal procurement route is undertaken, all discussions will be consistent and equitable in line with PCR 2015 and processes set out in the invitation to tender (ITT).

8.2 Contract Forms

All CCG officers need to understand the terms and conditions that apply to a particular contract prior to award. In all instances the CCG officers involved in procurement or market intervention must develop the contract in accordance with any technical guidance relevant to the contract.

Contracts for Supply and Services and Purchase of Goods: All commitments (with exception of framework agreements) must be on NHS standard terms and conditions for the purchase of goods/services or any other standard format defined by Crown Commercial Services, as applicable. Any deviation must be reviewed and recommended by the CPAG prior to executive approval.

Contracts for Supply and Services and Purchase of Goods: For the services awarded from an approved framework provider, the relevant call-off order is to be used that references the agreed framework terms and conditions.

Contracts for Healthcare Services: The NHS Standard Contract is mandated by NHS England for use by commissioners for all contracts for healthcare services other than primary care. In this context, the CCG officers must ensure that:

- In all instances the use of the NHS Standard Contract in any procurement or market intervention should be in accordance with the NHS Standard Contract Technical Guidance relevant in the year of use.
- Consideration is given to the use of the NHS England shorter form version of the Standard Contract, for use in defined circumstances.

Primary Care Contracts: The CCG officers shall ensure they use standard contracts for primary care services.

Section 75 and 76/256 Agreements: Section 75 of the NHS Act 2006 allows NHS Bodies and Public Bodies to establish joint agreements for the provision of healthcare related services. Section 256 of the NHS Act 2006 allows Public Bodies to commission healthcare related services on behalf of the NHS.

These arrangements must be supported by the relevant section 75/256 agreement and where possible, the NHS Standard Contract must be used by the lead Public Body hosting the contract.

Other Contracts: Other forms of contracts, such as verbal, implied, agreements via email, supplier led SLA agreements etc. are not recommended and not supported by this policy.

8.3 Modification of Existing Contracts

With regard to making variations to existing contracts, advice will be sought from CPAG to determine whether a proposed variation constitutes a material change which may require the contract to be subject to competition regulations.

8.4 Recording of Decision Making

The CCG will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract.

This will include:

- The details of the decision
- Who was involved in making the decision and the name of the decision-making committee
- A summary of any conflicts of interest in relation to the decision and how this was managed
- The award decision taken

All contract awards should be published in accordance with PCR 2015 and where applicable Contracts Finder.

8.5 Signature of Contracts

The signature of contracts will be done in line with the CCG's Prime Financial Policies and the Detailed Scheme of Delegation. The CCG process is covered under [Appendix B – Contract Signature Process](#) and supported by the [Contract Signature Authorisation Template](#) under Appendix A

8.6 Recording of Contracts

The CCG will maintain a register of all contracts in date and those expired in accordance with the NHS Records Retention Schedule

8.7 Contract Management Framework

The CCG will ensure that mobilisation and ongoing management and monitoring of contracts will be underpinned by an agreed Contract Management Framework.

This will be to ensure that there is regular communication and engagement between partners to ensure that arrangements for service delivery continue to be satisfactory to both parties.

Contract and/or quality review meetings are a mandatory requirement for all NHS contracts and will be the mechanism used to review commissioned services. This is not intended to be a one-way discussion but rather done in a collaborative manner in line with the ICS principles, which aims to share accountability, integration, risk, and support.

8.8 Contract Exit

The CCG will follow the process to terminate or expire a contract in line with the NHS Standard Contract General Conditions (GC17 Review) or as per the application terms in the contract.

The CCG will ensure the service is reviewed at the appropriate time before the end of the existing contract and not seek to roll over contracts or let them continue indefinitely.

When evaluating options upon termination or expiry of an existing contract, the decision-making process, and key factors to be considered will be broadly similar to scenarios where the CCG is seeking to secure new service models or significant additional capacity.

9 Contract and Procurement Advisory Group (CPAG)

- 9.1 A Contract and Procurement Advisory Group (CPAG) will be established to provide operational management of procurement activity within the CCG line with this policy.
- 9.2 The Group will report into the SWL Finance and Audit Committee's and shall be responsible for the regular review and monitoring of the CCG's Contract and Procurement Registers to ensure that appropriate and timely procurement plans are developed in advance of contracts reaching their respective termination / expiry dates.
- 9.3 The Group will assist to consider, risk assess and recommend the most appropriate forms of contractual arrangements and processes to put contracts into place, having regard to the CCG's commissioning objectives and its legal procurement obligations.
- 9.4 Terms of reference for this meeting is available under:
[Appendix E – CPAG Terms of Reference](#)

10 Freedom of Information

- 10.1 Section 1 of the Freedom of Information (FOI) Act 2000 gives a general right of access from 1 January 2005 to recorded information held by the CCG, subject to certain conditions and exemptions. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998 and may be disclosed to third parties in accordance with the Act.
- 10.2 When preparing to enter into contracts, the CCG must carefully consider their obligations under FOI and ensure any bidders/contractors are aware these will contain terms relating to the disclosure of information by them. The CCG may be asked to accept confidentiality clauses, for example to the effect that information relating to the terms of the contract, its value and performance will not be disclosed. FOI recognises that there will be circumstances and respects in which the preservation of confidentiality between public authority and contractor is appropriate, and must be maintained, in the public interest. However, it is important that the CCG makes the contractor aware of the limits placed by FOI on the enforceability of such confidentiality clauses relating to the disclosure of information.

11 Communication, Monitoring and Review (including Staff Training)

- 11.1 The CCG has established effective arrangements for communicating the requirements of this policy. This will include all new starters to the organisation being briefed on the requirements of this policy as part of their induction to the CCG.
- 11.2 The CCG will establish formal training and updates for all staff. Mandatory training will be provided to all staff who undertakes a commissioning or contacting role.

- 11.3 The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the CCG Audit Committee.
- 11.4 This policy will be reviewed by the CCG policy author and recommendations to amend will be submitted to the SWL CCG Governing Body for approval.

12 Equality and Diversity Statement

- 12.1 The CCG pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as commissioners and as employers.
- 12.2 As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.3 We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, Roma, and travellers.
- 12.4 As employers, we are committed to promoting equality of opportunity in recruitment, training, and career progression and to valuing and increasing diversity within our workforce.
- 12.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

13 Glossary

AQP	Any Qualified Provider
BI	Business Intelligence
CCG	Clinical Commissioning Group
CFO	Chief Finance Officer
CPAG	Contracts and Procurement Advisory Group
CSU	Clinical Support Unit
DoHSC	Department of Health and Social Care
EIA	Equality Impact Assessment
EQIA	Equality and Quality Impact Assessment
EU	European Union
FOI	Freedom of Information
GC17	General Condition 17
GP	General Practice
HCP	Health and Care Partnership
ICS	Integrated Care System
ITT	Invitation to Tender
MOU	Memorandum of Understanding
NAC	Non-Acute Contracts
NEL	North East London
NHS	National Health Service
NHSE	NHS England
OJEU	Official Journal of the European Union
PASA	NHS Purchasing and Supply Agency
PCC	Primary Care Committee
PCR	The Public Contract Regulations 2015
PPCC	NHS (Procurement, Patient Choice and Competition) (No 2) Regulations 2013
PSED	Public Sector Equality Duty
SFI	Standing Financial Instructions
SLA	Service Level Agreement
SMT	Senior Management Team
SOP	Standard Operating Procedure

STP	Sustainability and Transformation Partnership
STW	Single Tender Waiver
SWL	South West London
SWLCCG	South West London Clinical Commissioning Group
TUPE	Transfer of Undertakings (Protection of Employment)

14 Equality Impact Assessment

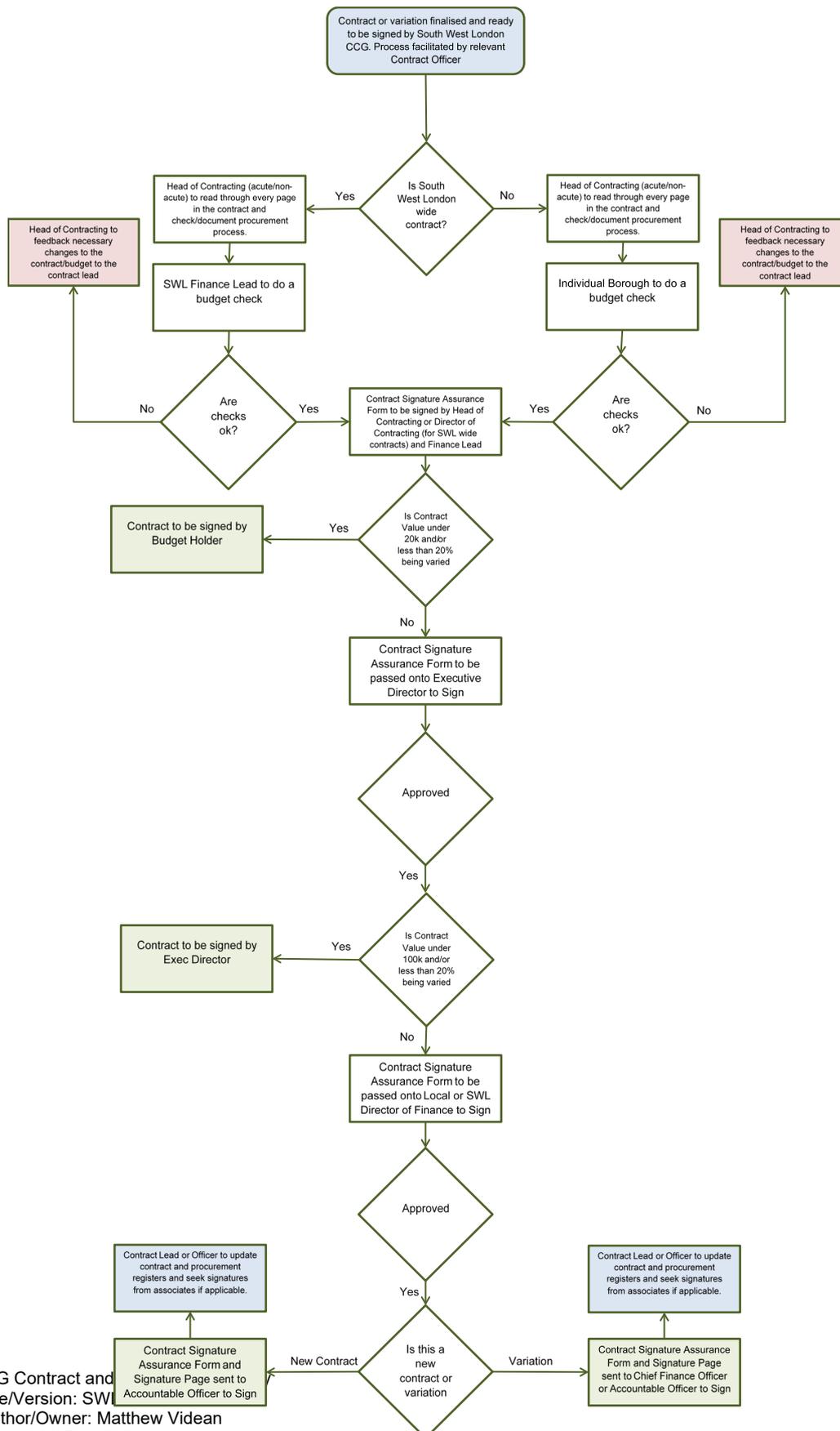
Detail of Proposal		
Implementation of SWL CCG Contract and Procurement Policy		
Date of EIA Assessment	28 th May 2020	
Assessor	Matthew Videan, Head of Contracting, SWL CCG	
Department/Lead responsible for this proposal	Neil McDowell, SWL Director of Finance, SWL CCG Amelia Whitaker, Director of Contracting, SWL CCG	
1. Describe the purpose of this proposal		
The purpose of this paper is to inform the audit and governance committee of the equality analysis for the implementation of the SWL CCG Contract and Procurement Policy		
2. Describe any associated objectives: (national targets, legislation etc.)		
Ensures adherence to the: Public Contracts Regulations 2015 NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 Health & Social Care Act 2012		
3. What factors contribute or detract from achieving intended outcomes?		
Objections		
4. Impact of proposal		
Does the proposal affect one group more or less favourably than another on the basis of:	Yes/No	What positive or negative impact do you assess there may be?
• Race	No	The policy is not limited to any patient group, however individual procurements/contracts may do, which will require the use of a separate EIA for those
• Pregnancy and Maternity	No	
• Sex	No	
• Gender and Gender Re-assignment	No	
• Marriage or Civil Partnership	No	

• Religion or belief	No	as part of procurement/service development.
• Sexual orientation (including lesbian, gay bisexual and transgender people)	No	
• Age	No	
• Disability (including learning disabilities, physical disability, sensory impairment and mental health problems)	No	
5. Will the proposal have an impact on lifestyle? (e.g. diet and nutrition, exercise, physical activity, substance use, risk taking behaviour, education and learning)	No	Not Applicable
6. Will the proposal have an impact on social environment (e.g. social status, employment (whether paid or not), social/family support, stress, income)	No	Not Applicable
7. Will the proposal have an impact on physical environment? (e.g. living conditions, working conditions, pollution or climate change, accidental injury, public safety, transmission of infectious disease)	No	Not Applicable
8. Will the proposal affect access to or experience of services? (e.g. Health Care, Transport, Social Services, Housing Services, Education)	No	Not Applicable
9. Describe current or planned activities to address the impact identified:		
No expected activities to address the impacts.		
10. Scope for new measures which would promote equality:		
Not Applicable		
11. Monitoring arrangements for the proposal		
<ul style="list-style-type: none"> Executive Management Committee Audit and Governance Committee 		
12. Equality Impact Rating	Low	✓
	Medium	
	High	
Reason for rating		
Policy has no direct impact on patient groups.		

15 Appendix A – Contract Signature Authorisation Template

Contract Signature Assurance Form – SWL CCG																															
<p>This sheet is accompanied by either a contract, or the Activity Plan and Financial Value the CCG is expected.</p> <p>Contract Title(s): New Contract, Variation and/or Extension: [New Contract] / [Variation] / [Extension] Service Description(s): Boroughs Covered: [SWL] / [Richmond] / [Kingston] / [Wandsworth] / [Merton] / [Sutton] / [Croydon] Service Type: [Goods and Non-Schedule 3] / [Health, Social or Schedule 3] Contract Code(s): Budget/Transformation Lead: Date:</p> <p>The following staff have authorised this contract in line with their responsibilities as per the Contract Signing Process SOP.</p>																															
<p>Tender Waiver Signed: Yes / No / N/A</p> <table border="1"> <thead> <tr> <th>Approval Body</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>Audit and Governance Committee (Grants)</td> <td></td> </tr> <tr> <td>Brough in Common Committee</td> <td></td> </tr> <tr> <td>Finance Committee</td> <td></td> </tr> <tr> <td>Governing Body</td> <td></td> </tr> </tbody> </table>		Approval Body	Date	Audit and Governance Committee (Grants)		Brough in Common Committee		Finance Committee		Governing Body		<p>Amelia Whittaker (SWL Director of Contracting) Head of Contracting or Deputy (Local Contracts)</p> <p>Amelia Whittaker/Matthew Videan Signature</p> <p>_____</p>																			
Approval Body	Date																														
Audit and Governance Committee (Grants)																															
Brough in Common Committee																															
Finance Committee																															
Governing Body																															
<p>SWL Wide Contract</p> <p>Budget level – £</p> <p>Contract Value – £</p> <p>SWL CCG Finance Representative: Neil McDowell, SWL Director of Finance</p> <p>Signature</p> <p>_____</p>		<p>Local Borough Contract</p> <table border="1"> <thead> <tr> <th></th> <th>Budget (£)</th> <th>Contract (£)</th> <th>Signature of Finance Representative</th> </tr> </thead> <tbody> <tr> <td>Richmond</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Kingston</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Wandsworth</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Merton</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Sutton</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Croydon</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Budget (£)	Contract (£)	Signature of Finance Representative	Richmond				Kingston				Wandsworth				Merton				Sutton				Croydon			
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Sutton																															
Croydon																															
<p>Director Sign Off</p> <p><i>If contract value is greater than £25k</i></p> <p>Lead Director Name: Date: Signature</p> <p>_____</p>		<p><i>If contract value is greater than £100k</i></p> <p>Lead Finance Director Name: Date: Signature</p> <p>_____</p>																													
<p><i>If contract value is greater than £500k (Non-Health) or £1m (Health)</i></p> <p><i>Locality Executive Director (Borough) or Executive Director of System Planning, Performance and Delivery (SWL)</i></p> <p>Executive Director Name: Date: Signature</p> <p>_____</p>																															

16 Appendix B – Contract Signature Process



17 Appendix C – Single Tender Waiver Form

South West London Clinical Commissioning Group Single Tender Authorisation Form

To: (Please forward to the next signatory)

[Accountable Officer]

[Chief Finance Officer]

It is proposed to initiate a single tender action with the following company:

XXXX

Details of Service/Goods Required and Cost per borough:

XXXX

Copy of the tender attached: [Yes]/[No]

Reason for single Action Tender - Please tick one or more reasons as necessary and provide a short explanation here, in particular stating why a waiver is sought:

Reason for Waiver Action:

XXXX

Formal tendering procedures need not be applied where (tick as appropriate):

- (a) It is for Goods and Non-Schedule 3 services and the estimated expenditure or income does not, or is not reasonably expected to, exceed £5,000; or
- (b) It is for Health and/or Social Care Services, or other services falling within scope of Schedule 3 of the Public Contracts Regulations 2015 and the estimated expenditure or income does not, or is not reasonably expected to, exceed £25,000; or
- (c) where the supply is proposed under special arrangements negotiated by the DoHSC in which event the said special arrangements must be complied with;
- (d) regarding disposals as set out in paragraph No.16; (Disposal of Assets) in the CCG Prime Financial Policies

Formal tendering procedures may be waived in the following circumstances:

- (e) in very exceptional circumstances where the Chief Officer decides that formal 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;
 - (f) where the requirement is covered by an existing contract;
 - (g) where NHS Purchasing and Supply Agency (PASA) agreements are in place and have been approved by the Governing Body;
 - (h) where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
 - (i) where the timescale genuinely precludes competitive tendering but failure to plan the work properly would not be regarded as a justification for a single tender;
 - (j) where specialist expertise is required and is available from only one source;
 - (k) 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;
 - (l) 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;
 - (m) 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 Finance Director will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work.
- (n) where allowed and provided for in the Capital Investment Manual.

Note: 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.

To be completed by Budget Holder/Commissioning Manager

Signed..... Date

Designation.....

Tender waivers below £100,000 are to be approved by the Accountable Officer or SWL Finance Director and reported to the Audit and Finance Committees. Tender waivers above £100,000 must be signed by both and to be also approved by the Finance Committee and reported to the Audit Committee.

[Chief Finance Officer]/[SWL Finance Director]

Comments.....

.....

Agreed/ Not Agreed *

Signed Date.....

[Chief Finance Officer]/[SWL Finance Director]

Accountable Officer

Comments.....

.....

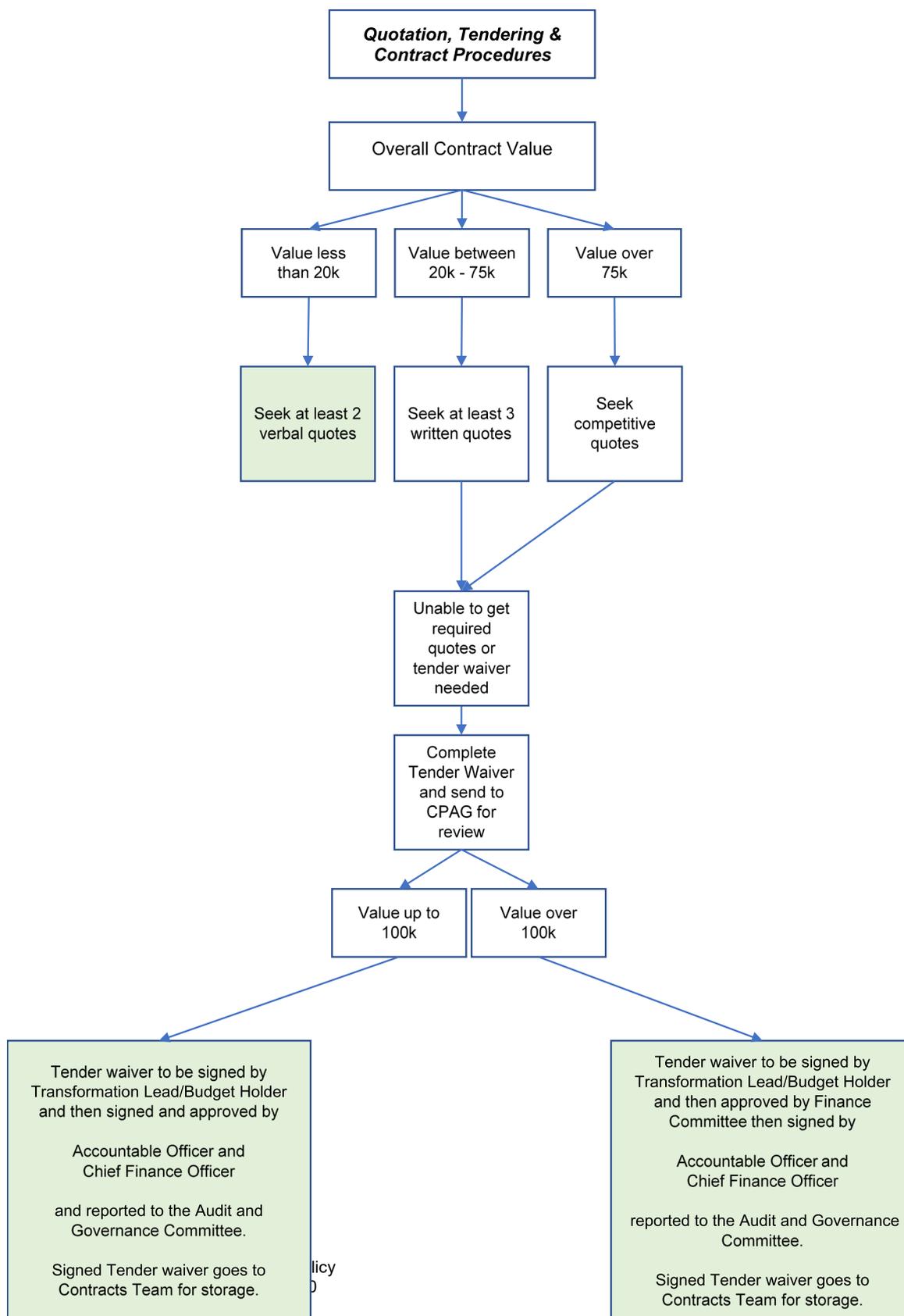
Agreed/ Not Agreed *

Signed Date.....

Accountable Officer

*delete as applicable

18 Appendix D – Single Tender Waiver Process



19 Appendix E – CPAG Terms of Reference

1. Introduction

1.1. The primary focus of the meeting will be to review and ensure contract and procurement governance is in place, as per the corporate governance standards and as per the Contracting and Procurement policy.

2. Authority

2.1. The Group is authorised by the SWL Finance Committee to pursue any activity within these Terms of Reference.

3. Scope

3.1. The group is to review include all healthcare and corporate contracts for both South West London CCG (Goods and Services only) including those hosted by SWL HCP.

4. Remit and responsibilities of the Committee

Procurement (planning)	<ul style="list-style-type: none"> A. Implement investment commissioning or decommissioning decisions which has been approved by the relevant committee, ensuring compliance with each CCG Standing Orders and Standing Financial Instructions and legal obligations in respect of tendering and contract procedures. A. Review and advise on the risks and benefits of routes to awarding contracts and then recommend the procurement route to be used for individual procurements e.g. Single Tender Action, Formal Competitive Tender, or an assurance process. B. Provide advice and guidance on Single Action Tender Waivers and review before going SWL Finance Committee. This to include consideration regarding justification being developed for any non-competed contract award recommendations, ensuring regard is given to Monitor’s guidance on the NHS 2013 regulations C. Develop the CCG annual procurement work programme and monitor on an on-going basis reshaping and/or refocusing as required to take account of emerging and changing factors. D. Ensure all relevant inputs have been prepared by the lead transformation or service redesign manager to enable a robust recommendation/decision making process on whether, and how, to procure any specific service. E. Ensure that appropriate engagement with providers has taken place to inform the CCG in regard to its review of services and development of new services, including validating the CCGs assumptions regarding future provision of services (demand, commercial arrangements, service models, etc.) F. Consider and advise on risks of routes to awarding contracts and recommendations to seek to mitigate.
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	<p>G. Providing steer of what is required in terms of papers/business cases and which committees these need to go to for approval.</p>
<p>Procurement (Process)</p>	<p>A. Review and oversee the progress of all CCG procurements, ensuring compliance with the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 and the Public Contracts Regulations 2015.</p> <p>B. Ensure appropriate procurement advice and support is available to support project leads in developing and approving:</p> <ul style="list-style-type: none"> • Engagement with the market • the advertising of procurements • the issue of tender documentation • the evaluation strategies to be used by procurement project teams <p>C. Advise on conflict of interests between commissioners and providers and ensure that any conflicts identified are appropriately addressed</p> <p>D. Ensure that the design of procurement processes is proportionate, ensuring equal treatment and non-discrimination.</p> <p>E. Ensure that an appropriate level of due diligence takes place for each contract being entered into, ensure proportionality in light of the relative importance, value and risk associated with the contract.</p>
<p>Procurement (Publishing)</p>	<p>A. Ensure all CCG procurement contract adverts, expressions of interest and contract awards are published on Contract Finder and on the CCG website and where appropriate, the Official Journal of the European Union (OJEU).</p> <p>B. Maintain a record of all CCG awarded contracts and will ensure that this is accessible to patients and the public via each CCG website.</p> <p>C. Publish details of all contracts awarded, whether following a competition or directly awarded on both Contracts Finder and OJEU as mandated by the regulations (both the 2013 and the 2015 regulations) having regard to contract values.</p> <p>D. Ensure that the timeliness of the publication of Contract Award Notices is supportive of the CCGs approach to awarding a contract including where relevant, mitigating against risk of challenge.</p> <p>E. Publish details of all contracts on the website of the CCGs in compliance with NHS England statutory guidance.</p>
<p>Procurement (Decision)</p>	<p>A. Decisions affecting GP Member practices will be passed to the Primary Care Committee (PCC) for comment and scrutiny. In this regard the role of the CPAG will be to advise PCC of appropriate procurement and contracting routes.</p> <p>B. The PCC may then seek further guidance from CPAG as necessary; but ultimately will make recommendations to the CCG Governing Body.</p> <p>C. CPAG will ensure that requests for Single Tender Waivers are approved by SWL CCG Finance Committee and that final decision-making relating</p>

	<p>to procurements is undertaken by the Borough Led Common in Committees (CiCs) and CCG Governing Body.</p> <p>D. CPAG will make procurement recommendations within the context of the CCG's Prime Financial Policies and procurement thresholds.</p> <p>E. All decisions on procurement route are reserved for the CCG Board.</p>
<p>Maintaining Register of Procurement Decisions</p>	<p>CPAG will maintain a register of procurement decisions for all contracts, which will include the following:</p> <ul style="list-style-type: none"> • The details of the decision. • Who was involved in making the decision (i.e. governing body or committee members and others with decision making responsibility); and • A summary of any conflict of interest in relation to the decision and how this was managed by the CCG. • CPAG will ensure that the register is updated whenever a procurement decision is taken.

<p>Contract Management</p>	<p>A. Ensuring that the contract documentation is being used by the CCG and is reviewed and updated on an annual basis, and complies with a checklist of required content (e.g. safeguarding, information governance).</p> <p>B. Ensuring use of appropriate forms of contract incorporating terms and conditions compliant with NHS policy and guidance</p> <p>C. Ensuring that the storage policy for contract documentation is development and implemented; and reviewed on an annual basis.</p> <p>D. Providing expert contracting and advice and support to commissioners and considering when specialist legal advice may be required to be sought.</p> <p>E. Ensuring that contract reviews are taking place with key actions being recorded.</p> <p>F. Monitoring governance and issues for contracts managed externally i.e. CSU, GP Federations.</p> <p>G. Exploring opportunities to integrate existing contracts and meetings to promote efficiency.</p> <p>H. Ensuring there is Quality and Performance involvement at the meeting to review any applicable contractual implications.</p> <p>I. Regular reviewing of the expiry of contracts:</p> <ul style="list-style-type: none"> • To identify contracts expiring in the next 12 – 18 months – making recommendations for commissioning leads to review those contracts at part A of the CPAG. • Ensuring adequate notice is given as per notice periods in the contract.
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	<ul style="list-style-type: none"> • Ensuring timely collation of TUPE information from incumbent providers • Ensuring SMT is aware of upcoming contracts due to expire and the commissioning intentions for those services. <p>J. Escalation point for any contractual issues.</p>
<p>Maintaining register of contracts</p>	<p>A. Maintaining the CCGs contract register.</p> <p>B. Ensuring the list includes all contracts and with those with an annual contract value of at least £25,000 for publication i.e. on the CCG’s website, and also via Contracts Finder (if over £25k) and on OJEU (if over the relevant threshold – e.g. £181k, or £615k if a service within Schedule 3 of the PCR 2015).</p> <p>C. Ensuring the list has the following:</p> <ul style="list-style-type: none"> • Contract Signature Status • Contract Type • Responsible Commissioner and Contract Lead • Start and End Dates • Provider Contact details • Description of Service • Annual Budget Value • Annual Contract Value • Details of extension and notice periods • Responsible Host Commissioner

5. Delegated Authority

5.1. Each party needs to ensure they are appropriately represented regarding matters arising from the above.

6. Membership

6.1. **Core** Members:

- SWL Director of Contracting (Chair), CCG
- SWL Director of Finance, (Co-Chair), CCG
- Director/Deputy Directors of Transformation, CCG
- Head of Contracting, CCG
- CCG Contract Managers
- CCG Finance Representative
- CSU Contracting Representative
- CSU Procurement Representative
- CCG Transformation Leads (where on agenda)
- Contract Support Officer (notes and servicing of the group)

6.2. **Supplementary** Members (to be also included in papers):

- CCG Primary Care Representative
- CCG Quality Representative
- CCG Performance and BI Representative
- SWL HCP Representative

6.3. Members of the Committee may participate in a meeting by teleconference or videoconference. A person participating in this way shall be deemed to be present in person at the meeting and shall consequently be counted in a quorum.

6.4. Members may also nominate a representative with delegated responsibility should they not be able to attend.

7. Quorum

7.1. The CPAG will not be involved in any decision making, however, to ensure appropriate governance is monitored, the meeting will need to be quorate with the following:

- Director or Deputy Director
- Head of Contracting or Deputy Head of Contracting
- 1 Contract Manager
- 1 Transformation Lead
- 1 Representative from CSU
- 1 Representative from Finance

7.2. A suitable deputy who has been fully briefed is permissible but each core member shall ensure he/she is in attendance for at least 75% of all scheduled annual meetings (i.e. 9 out of 12 meetings per year).

7.3. Attendance must be confirmed prior to the meeting and any/all apologies should be submitted at least 2 working days in advance of the meeting.

8. Reporting Procedures

8.1. Formal minutes of meetings shall be recorded, this may include the use of recording devices for this purpose only. Key items within the minutes will be submitted to the CCGs Delegated Committees.

8.2. Audio and Visual Recording

There will be audio recording for the purposes of recording minutes in line with the requirements of the Data Protection Act (2018), Professional Codes of Conduct, the Caldicott Guardian standards and other relevant UK legislation. Therefore:

- All attendees at the meeting will be informed that recording will be used.
- Permission will be obtained for using audio or visual equipment and this agreement noted in the minutes.
- Data will be kept in a secure location and accessible when lawfully requested. This will be until the recording is destroyed, and this will be done once the minutes have been approved.
- If there are any objections, then audio or visual recording will not be used. However, this may impact in the timeliness and quality of the minutes produced and key agreements in the meeting will need to be explicitly stated in order to be accurately captured.

9. Conflicts of Interest

9.1. All attendees are required to declare any Conflicts of Interest. If any person present at the meeting has a conflict of interest in any matter under discussion, he/she will actively declare that interest and shall not participate in the discussions. The Chair will have the power to request that person to withdraw until the group consideration has been completed. If the chair declares a conflict of interest, then they will withdraw, and the deputy chair will take over.

10. Administration

10.1. The agenda will be developed via the Work Plan, agreed with the Chair. As well as standing items, each month special items will be included on the agenda according to the agreed Work Plan.

10.2. Minutes and an action log will be prepared by the Contract Support Officer and distributed for approval of the Chair and representatives within 5 working days of each CPAG. The minutes will include as a minimum a summary of matters raised, actions taken, agreements reached and any disputes referred.

10.3. The Chair of CPAG Meetings will use his/her discretion, to permit Core Members and/or attendees of the forum to table reports/papers at meetings that have been discussed with the Chair beforehand.

11. Timeline:

1. Agenda to be agreed with the CPAG Chair 15 working days prior to the meeting. Input to the agenda from is to be co-ordinated by Head/Deputy Head of Contracting with support from Contract Support Officer.
2. Reports to be received by the SWL Non-Acute Contracts shared mailbox:
SWL.NAC@swlondon.nhs.uk
not less than 7 working days prior to the CPAG.
3. Papers to be issued 5 working days prior to the meeting.
4. Any additional queries are to be forwarded to Head/Deputy Head of Contracting by 5 working days prior to the meeting to enable a response to be prepared for discussion at the CPAG.

5. Minutes and action log to be approved by Head/Deputy Head of Contracting and the CPAG Chair within 6 working days.
6. Minutes and action log to be sent to all CPAG members within 7 working days

12. Deadlines / Late Reports

- 12.1. Any report which is not submitted by the designated submission deadline will not be considered at the relevant meeting and cannot be tabled at the said meeting. The person responsible for the report submission shall inform the CPAG Chair of reasons for the non – submission.

13. Behaviours

- 13.1. Mutual co-operation, collaboration and effective partnership working for the benefit of the local health economy are the expected behaviours of this group.
- 13.2. It is expected that contract and commissioning leads communicate frequently in between meetings and that as issues arise, these will be discussed openly through the forum of the meeting.

14. Reporting/Relationship to other Groups

The CPAG will report to SWL Finance Committee and where applicable to the borough CiC to update on progress with procurements, escalate contractual issues and to provide list of contacts expiring within 6 months and 12 months. This may also include Audit Committee on a less regular/ad-hoc basis.

The group will have key relationships with other CCG groups advising what needs to go to where based on the status/progress with contracts/procurements. The reporting mechanism between these are provided below:

15. Frequency of meetings

- 15.1. Meetings shall be held monthly.
- 15.2. Meetings are to be arranged for the 1st Wednesday of every month.

16. Review

- 16.1. These Terms of Reference will be reviewed on an annual basis to reflect any changes introduced for contracting /national changes. Any resulting changes to the terms of reference should be approved at CPAG.