
Regulation, Audit and Accounts Committee: Standing Order amendments – Provider Selection Regime

Background and context

- 1 The Council enters into many contracts for health care services each year, largely in the areas where services for adults and young people overlap with those of Health and in Public Health. The procedures for ensuring these are entered into properly are the Council's Standing Orders on Procurement and Contracts.
- 2 On 1 January 2024, the Provider Selection Regime (PSR) came into force. The PSR is a new set of rules for procuring health care services in England by organisations including local authorities. The PSR has been designed to:
 - introduce a flexible and proportionate process for selecting providers;
 - provide a framework that encourages collaboration across systems; and
 - ensure decisions are made in the best interest of patients and service users.
- 3 This means that the Council will no longer have to procure health care services in accordance with the Public Contracts Regulations. The relevant legislation is the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) and it applies to the commissioning of NHS and public health services provided to individuals in England as part of the health service.
- 4 The regime must be applied when contracts for health care services (whether procured directly by the Council or jointly with the NHS) are coming to an end, changing considerably, or being awarded for the first time.
- 5 The PSR provides three provider selection processes that councils can follow:
 - (a) **Direct award (A, B, and C):** These involve awarding contracts to providers when there is limited or no reason to seek to change from the existing provider or to assess providers against one another, because:
 - i. The existing provider is the only provider that can deliver the services (process A);
 - ii. patients have a choice of provider and the number of providers is not restricted by the relevant authority (process B); or
 - iii. the existing provider is satisfying its existing contract, will likely satisfy the new contract to a sufficient standard, and the proposed contracting arrangements are not changing considerably (process C).
 - (b) **Most suitable provider:** This involves awarding a contract to providers without running a competitive process, because the relevant authority can identify the most suitable provider without a competitive process.
 - (c) **Competitive:** This involves running a competitive process to award a contract in accordance with the Council's standard procurement routes and in compliance with the Public Contracts Regulations 2015.
- 6 The Council will need to evidence the decision-making, including record keeping and the publication of transparency notices.

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- 7 Procurements for all other services shall continue to be procured in the usual way i.e. in accordance with current Standing Orders and the PCR 2015.

Proposal details

- 8 Standing Orders need to be updated to reflect the Health Care Services (Provider Selection Regime) Regulations 2023. The proposed amendments **are set out at Appendix 1** and have been endorsed by the Committee. These have been slightly updated since the Committee's approval to take account of some drafting errors in the version presented to the Committee.
- 9 It is also proposed that further changes, as advised by the Director of Law and Assurance, be made to those parts of the Standing Orders on Contracts and Procurement which require amendment to deal with internal changes to Council governance and officer roles. Those are also shown in Appendix 1.
- 10 To ensure that Council officers are awarding contracts in accordance with the new legislation, the Procurement Support Team and the Commercial Legal Team will provide support on the decision routes taken, the internal governance required and to ensure the Council is complying with the transparency obligations.

Recommended

That the proposed changes to Standing Orders on Procurement and Contracts, as set out at Appendix 1, be approved to enable the Council to utilise the processes as set out in the PSR when procuring contracts for health care services and to ensure they are up to date in relation to Council governance.

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Appendices

- Appendix 1 – Proposed amendments to Standing Orders on Procurement and Contracts in relation to the Provider Selection Regime

Background papers

None