

# Any Qualified Provider (AQP) Contract Management Policy

March 2021



## Any Qualified Provider (AQP) Contract Management Policy

1.	<b>SUMMARY:</b>	This policy sets out the North Central London Clinical Commissioning Group will manage the procurement and renewals of Any Qualified Provider (AQP) Contracts.		
2.	<b>RESPONSIBLE OFFICER:</b>	Chief Finance Officer.		
3.	<b>ACCOUNTABLE OFFICER:</b>	Accountable Officer.		
4.	<b>AUTHOR:</b>	Mark Eaton, Interim Director of Strategic Projects		
5.	<b>APPLIES TO:</b>	All CCG members, employees, self-employed consultants, contractors, officers and office holders, Governing Board (including committee) members.		
6.	<b>GROUPS/ INDIVIDUALS WHO HAVE OVERSEEN THE DEVELOPMENT OF THIS POLICY:</b>	Governance and Risk Team; CSU Procurement Team; CSU Contracts Team; Individual Commissioners (including Keith Spratt).		
7.	<b>GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:</b>	Procurement Committee endorsed the policy on 25 <sup>th</sup> November 2021.		
8.	<b>EQUALITY IMPACT ANALYSIS COMPLETED:</b>	<b>Policy Screened</b> ✓		<b>Template Completed</b> ✓
9.	<b>RATIFYING COMMITTEE(S) &amp; DATE OF FINAL APPROVAL:</b>	Strategy and Commissioning Committee approved this policy on 11 <sup>th</sup> March 2021.		
10.	<b>VERSION</b>	NCL CCG Version 1.		
11.	<b>AVAILABLE ON:</b>	CCG website and staff intranet.		
12.	<b>RELATED DOCUMENTS:</b>	CCG Constitution; Standing Financial Instructions; Conflicts of Interest Policy; Procurement Policy; Standards of Business Conduct Policy; Counter Fraud, Bribery and Corruption Policy; Disciplinary Policy; Speaking Up (Whistleblowing) Policy; Sponsorship and Joint Working With The Pharmaceutical Industry Policy.		
13.	<b>DISSEMINATED TO:</b>	Governing Body and all Staff.		
14.	<b>DATE OF IMPLEMENTATION:</b>	March 2021.		
15.	<b>DATE OF NEXT FORMAL REVIEW:</b>	April 2023.		

### Document Control

Date	Version	Action	Author
February 2021	1	Policy drafted to reflect best practice in Procurement of Any Qualified Provider (AQP) healthcare services	Mark Eaton

# 1 Introduction

- 1.1 This policy is intended to support the future procurement and renewals of Any Qualified Provider (AQP) contracts.
- 1.2 Each AQP Contract will require a Service Specification and Governance Structure including Key Performance Indicators. The design and terms of these items are outside of the scope of this document.
- 1.3 Each AQP Contract will also need a signed off Equality and Quality Impact Assessment. This will need to be reviewed as part of any renewals process.
- 1.4 The AQP procurement processes will comply with the CCG's Procurement Policy.

# 2 Alignment to the Procurement Policy

- 2.1 This policy is aligned to the CCG's Procurement Policy. Specific clauses within the Procurement Policy relevant to this policy document are repeated below for clarity:

**Clause 9.7:** *Where the CCG decides to commission services through AQP, it will publish details of the categories of services that they have commissioned and the agreed price for each service. These details will also be detailed in the CCG's Annual Report. Where services are commissioned through an AQP approach, the CCG will ensure that there is information publicly available about those providers who qualify to provide the service.*

**Clause 11.1:** *With the AQP model, for a prescribed range of services, any provider that meets criteria for entering a market can compete for business within that market without constraint by a commissioner organisation. Under AQP there are no guarantees of volume or payment, and competition is encouraged within a range of services rather than for sole provision of them.*

**Clause 11.2:** *The AQP model will not always be appropriate, for example where:*

- *The number of providers needs to be constrained, e.g. the level of activity can only support one provider;*
- *Clinical pathways dictate a restricted number of providers;*
- *Value for money cannot be demonstrated without formal market testing (e.g. to determine the price the CCG will offer for provision of the services);*
- *Innovation is required from the market and cannot be achieved collaboratively;*
- *There is no effective method of selecting from amongst qualified providers for delivery of specific units of activity;*
- *Overall costs would be increased through multiple provider provision avoidable duplication of resources.*

**Clause 11.3:** *The AQP model promotes choice and contestability, and sustained competition on the basis of quality rather than cost. Any service that is contracted through the AQP model does not need to be tendered, although it will be advertised where appropriate (using the appropriate dedicated website and/or OJEU as required) and potential service providers will need to be qualified.*

**Clause 11.5:** *The CCG will have regard at all times to the PCR 2015 Principles of Procurement which are non-discrimination, equal treatment of all economic operators and act in a, transparent, mutual recognition and proportionate manner when applying the AQP and any Procurement procedure.*

### 3 Policy Statement on Renewals of Contracts

**NOTE:** This section should be read in conjunction with Clauses 9.7, 11.3 and 11.5 of the Procurement Policy. More generally reference should be made to Section 11 of the Procurement Policy.

- 3.1 The CCG will automatically renew Any Qualified Provider contracts after the initial contract period ends. This intention will be made explicit in all future Contract Notices and procurement documentation. This is subject to any conditions identified under Section 5 of this policy.
- 3.2 Upon renewal the Equality and Quality Impact Assessments should be reviewed and (if required) updated.

### 4 Guidance from Monitor

- 4.1 Monitor has issued the following guidance in respect of Any Qualified provider:

***Acute elective care and other services where any qualified provider can provide services to patients***

*Different considerations will apply where patients are able to choose between any providers that satisfy a commissioner's quality criteria and are willing to provide services at the national or local tariff. For example, the NHS Constitution sets out the right for patients to choose, subject to certain exceptions, which provider to go to when they are referred for a first outpatient appointment for a service led by a consultant.*

*Where a commissioner does not restrict the total number of providers that appear on a list from which patients can choose to go to for a particular health care service, it will not need to run a competitive process to select providers (because subject to satisfying the commissioner's requirements on quality and price, all interested providers will be able to offer their services to patients). The commissioner will, however, need to ensure that the process through which a provider is able to become eligible to provide services is consistent with the framework established by the regulations. For example, consistent with Regulation 7, the commissioner will need to establish and apply transparent, proportionate and non-discriminatory qualification criteria and, where the health care service is a first outpatient appointment for elective care led by a consultant, the commissioner cannot refuse to add a provider to the list of providers from which patients can choose to go if the provider satisfies that criteria (see Section 4 for details). It will also need to be satisfied that the way it handles requests by providers to become accredited is consistent with the requirements of the regulations (including, for example its overall objective to procure high-quality, efficient services that meet patients' needs, the requirement to procure services from those providers most capable of delivering this objective and the requirement to act transparently, proportionately and to treat providers equally).*

*Once a provider has been qualified to offer its services to patients, a commissioner should not run a new process to re-qualify the provider when its contract with the provider comes to an end, unless there are specific reasons for doing so (for example, because the commissioner has already raised concerns as part of the contract management process that the provider is not meeting required quality standards, or because the commissioner has decided to change the quality criteria). If, for example, a provider of acute elective care wants to continue to offer services at the*

*relevant tariff and the commissioner is satisfied that the provider continues to meet the necessary quality standards, it should simply extend or renew the contract.”*

## 5 Reasons for re-Procurement of Service

**NOTE:** This section should be read in conjunction with Clauses 9,7, 11.1, 11.2, 11.3 and 11.5 of the Procurement Policy. In addition, more general reference should be made to Sections 8, 9, 11, 22 and 27 of the Procurement Policy.

- 5.1 When one or more of the following criteria are met, whether they have been triggered by either the Commissioner or the Provider, the CCG will give notice to current providers in line with the contract terms and start a new procurement either for a replacement AQP Service or for a new service as appropriate:
- Material change in the Service Specification;
  - Material change in the Quality Standards;
  - Material change in the price or Pricing Methodology;
  - Change in guidance issued by Monitor or other Regulatory Body;
  - The CCG decides to move away from the service being delivered as an AQP Service for any reason.

- 5.2 Notice given to providers will be in line with the standard NHS National Contract.

## 6 New Entrants

**NOTE:** This section should be read in conjunction with Clauses 9,7, 11.1, 11.2, 11.3 and 11.5 of the Procurement Policy. More generally reference should be made to Section 11 of the Procurement Policy.

- 6.1 The CCG will periodically review whether to open up the contract for new entrants. When the contract is opened up to new entrants this will be for a period of no less than 28 days for new entrants who wish to become an accredited provider for an Any Qualified Provider contract. The timeline for each advertisement will be agreed in the workplan for the Procurement Committee.
- 6.2 The timeline for periodically advertising an Any Qualified Provider contract will be agreed by the CCG Procurement Committee.
- 6.3 The Procurement Committee will consider any request from a new bidder and confirm the next window for advert.
- 6.4 The advert will be placed on the CCG's website, on Contracts Finder (<https://www.gov.uk/contracts-finder>) and Find a Tender Service (<https://www.find-tender.service.gov.uk/>) as appropriate depending on the contract value
- 6.5 The accreditation of any new provider will need the approval of the Procurement Committee.

6.6 All new entrants will need to demonstrate that they meet the NCL standards for Equality of Access.

## 7 Price Changes

**NOTE:** This section should be read in conjunction with Clause 11.1 of the Procurement Policy. More generally reference should be made to Section 11 of the Procurement Policy.

- 7.1 The original procurement will set the price of the service for the initial duration of the contract.
- 7.2 After the initial contract duration is completed and the contract moves to automatic renewal then price will be adjusted in line with the Tariff inflator/deflator published by Monitor or any other appropriate NHS Regulatory Body.
- 7.3 Price changes outside of 7.2 (ie above or below that of national inflators/deflators or outside of the annual planning cycle) will need to be considered via the Procurement Committee and approved by the Finance Committee of the NCL CCG.

## 8 Review

- 8.1 This policy should be reviewed every two years. An earlier review may be indicated if revised or updated guidelines become available that needs to be considered.

## 9 References

- 9.1 The Monitor guidance on Any Qualified Providers can be found via the following link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/283505/SubstantiveGuidanceDec2013\\_0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283505/SubstantiveGuidanceDec2013_0.pdf)

