

Procurement of healthcare (clinical) services

*Introduction: Why do CCGs need to
understand procurement?*

First published: September 2012

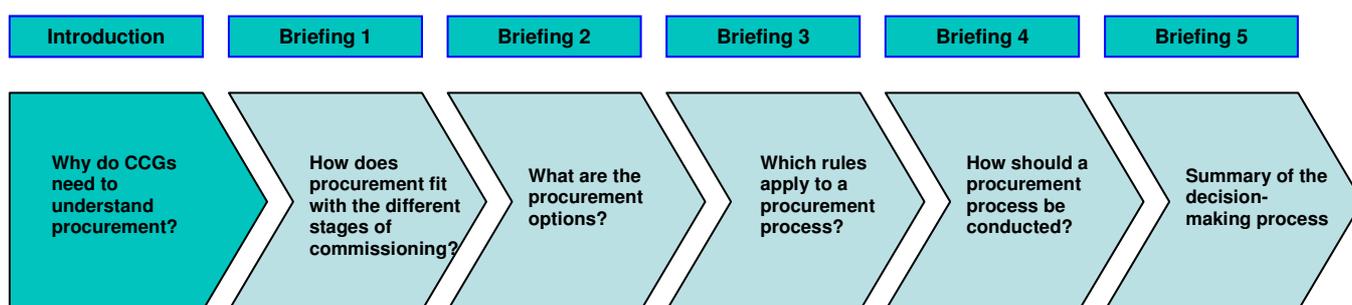
Prepared by the Commissioning Development Directorate

Introduction: Why do CCGs need to understand procurement?

What do these briefings cover?

This series of briefings for CCGs highlights and builds on some of the key messages in the *Procurement guide for commissioners of NHS-funded services*.¹

The aim of these briefings is to help CCGs understand what procurement is and when to use procurement for **healthcare (clinical) services**, to provide an overview of the different procurement approaches that CCGs may adopt in appropriate circumstances and to outline some of the key considerations when undertaking a procurement process. There are a series of connected briefings.



These briefings will:

- set out the key milestones in the different stages of commissioning;
- explain the integral role of procurement in the stages of commissioning;
- explain your responsibilities in relation to procurement of healthcare (clinical) services;
- set out the points at which you need to make key decisions; and
- help you understand what governance arrangements you need to put in place to discharge your responsibilities.

Who should read these briefings?

These briefings are for members of CCGs and may also be helpful for members of CCG governing bodies and staff. The *Procurement guide for commissioners of NHS-funded services*

¹See http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_118218

provides more detailed advice for commissioners of NHS-funded healthcare services and their agents.

These briefings are designed to be read by members of the CCG to ensure that everyone has at least a basic understanding of the CCG's responsibilities in relation to procurement of healthcare (clinical) services. You may decide to use commissioning support services to provide you with advice about procurement of healthcare services and to carry out procurements on your behalf but you will always remain responsible and accountable for making decisions throughout the process.

It is recommended that an individual and/or committee has specific responsibility for procurement matters. That individual and/or committee will need to understand the CCG's obligations in more detail and take responsibility to ensure that they are met.

What is procurement?

CCGs will be responsible for securing health services to meet the needs of their patients. They will be able to secure these services in three broad ways:

- first, through the contracts with existing providers that they will inherit from PCTs and through future variations in those contracts;
- second, through enabling patients, when they are referred for a particular service, to choose from Any Qualified Provider (AQP) that wishes to provide the service;
- third, through tendering for a new or replacement service, i.e. identifying the single exclusive provider or group of providers that will be chosen to provide that service.

Procurement covers the second and third of these routes for securing services.

Why do you need to understand procurement?

- Effective procurement is an essential component of commissioning improved services and outcomes for local patients and communities and ensuring value for money.
- It is your responsibility. To ensure they are in the driving seat, clinical commissioners will be responsible for determining (working within the statutory frameworks), when and how to use competition.
- It is a matter of law. As a public body, a CCG will need to adhere to legislation that governs the award of contracts by public bodies, including the Public Contracts Regulations 2006, and will need to satisfy the obligations of transparency, equal treatment and non-discrimination set out in the regulations. CCGs will also need to comply with regulations to

be implemented under section 75 of the Health and Social Care Act², which will place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour, and protect and promote the right of patients to make choices about their healthcare.

- These briefings will help you be aware of your CCG's obligations and how it can fulfil them.

Will you use commissioning support services?

You may find it useful, or necessary, to use commissioning support services to help you manage your procurement processes.

Where you choose to use commissioning support, you will still need to understand the procurement requirements and legislation. **A CCG will remain accountable whether or not it appoints others to carry out activities on its behalf.** You must not unlawfully delegate to other organisations the responsibility for making decisions.

What do I need to know for authorisation?

As part of the authorisation process, you will be required to declare that your CCG is compliant with current statutory and policy-led procurement requirements and will have systems in place to discharge those requirements.³ You will therefore need to ensure that such systems are in place. These briefings will help you to understand these requirements.

² The consultation on the content of the section 75 regulations commenced on 15 August and can be found at <http://www.dh.gov.uk/health/2012/08/consultation-commissioners/> Views are sought by 26 October 2012.

³ See <http://www.commissioningboard.nhs.uk/resources/resources-for-ccgs/auth/>