

Procurement Strategy

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Contents

	Page
Introduction	1
Principles and Practice	2
The Procurement options	7
Deciding whether to use a Competitive Tender process	10
The Decision making process	11
The Process for Procurement	11
The Process for Managing Major Procurements	14
Confidentiality and Conflicts of Interest	17
Procurement Planning	18
External Support and Advice	20
Collaborative and Joint Commissioning	20
Sustainable Procurement	21
Market Development Plan	21

PROCUREMENT STRATEGY

Introduction

1. Since the Health and Social Care Act 2012, the NHS is going through its biggest restructure since its creation in 1948. The abolition of Primary Care Trust on 31st March 2013 and the introduction of Clinical Commissioning Groups on 1st April 2013 transfers commissioning of Healthcare services to Clinical Commissioning Groups. The Health and Social Care Act 2012 empowers Clinical Commissioning Groups to commission Healthcare services for the local population working in partnership with the Local Authority, the Health and Wellbeing Board, Voluntary Sector, local health providers and the NHS Commissioning Board to deliver an improved quality of care whilst maintaining the current levels of expenditure.
2. The publication of the Single Integrated Plan for Barnsley 2012 identifies key priorities, to ensure the vision of Barnsley Clinical Commissioning Group is achieved. The key priorities for improvement are:
 - Respiratory Disease
 - Cancer
 - Cardio-vascular Disease
 - Mental Health
 - Healthy Ageing
 - Alcohol Related Illness
 - Dementia
 - Obesity and Diabetes
3. The 'Procurement Guide for commissioners of NHS-funded services' and the 'Principles and rules for cooperation and competition', published in July 2010, support Clinical Commissioning Groups in deciding whether and how to procure healthcare services through formal tendering and market testing exercises.
4. The NHS Commissioning Board has developed a series of procurement briefings for Clinical Commissioning Groups (September 2012) that summarise the key elements of legislation and guidance currently governing NHS procurement of healthcare services. These briefings also provide an overview of the different procurement approaches that Clinical Commissioning Groups may adopt and outline some of the key considerations when undertaking a procurement process. This document applies this guidance throughout.
5. In the context of the local and national agenda, and recognising significant improvements already made to delivery, service quality and outcomes, maintaining the same approach to the commissioning of healthcare services is unlikely to secure better outcomes and value for money in the context of the financial challenge facing the public sector. Changes to the roles of hospitals, and a shift to primary care leading and delivering more services in a community based setting, will require the Clinical Commissioning Group to work closely with

all providers, including new providers and the voluntary sector. Different approaches to the delivery of pathways of care across providers are essential.

6. The Clinical Commissioning Group is responsible for securing healthcare services to meet the needs of the people of Barnsley. We are also responsible for determining (working within the statutory framework), when and how to use competition. As a public body, the Clinical Commissioning Group must adhere to legislation that governs the award of contracts by public bodies, including the Public Contracts Regulations 2006, and must satisfy the obligations of transparency, equal treatment and non -discrimination set out in the regulations.
7. The Clinical Commissioning Group will comply with regulations under section 75 of the Health and Social Care Act 2012, which 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.
8. In line with this Procurement Strategy, Barnsley Clinical Commissioning Group will decide if each recommendation derived from the transformation work should be tendered taking into consideration the estimated value of the contract, level of market interest and capability, government policy on protected services and whether there is a reason that competition is not appropriate in a particular circumstance.
9. Once the decision is taken to procure by competitive tender the Barnsley Clinical Commissioning Group will use an agreed process, which sets out the principles, rules, and methods it works to. This strategy outlines how and when it is appropriate to seek to introduce contestability and competition as methods to help to define the most beneficial and cost effective modes of delivery.
10. Generating momentum, delivery of completed projects, and stakeholder engagement are key to Procurement. Rigorous and transparent processes will deliver affordable services within defined timescales. Barnsley Clinical Commissioning Group will develop the local health economy in Barnsley by encouraging new providers and supporting local and existing providers so they can participate fully. A vibrant market place for healthcare provision will encourage innovation, drive up quality, and allow the Clinical Commissioning Group to clearly demonstrate value for money.

Principles and Practice

EU Principles and Criteria

11. The European Union Treaty and Directives on procurement require competition as a mechanism by which contracting authorities ensure equality of treatment, transparency, proportionality and non-discrimination. However, it remains for each contracting authority to decide whether a formal tender is required for the procurement of healthcare services.

12. Clinical Commissioning Groups will need to be familiar with the requirements of the sector-specific regulations including the proposed Procurement, Choice and Competition Regulations set out in 'Securing best value for NHS patients' (August 2012), which establishes minimum standards governing procurement and contracting for healthcare services. The Department of Health is consulting on proposals for these regulations over the Autumn and the regulations will come into force from April 2013. The proposed regulations build on the existing rules for commissioners set out in the Principles and Rules for Cooperation and Competition (June 2010) but place them on a firmer, statutory footing.
13. Barnsley Clinical Commissioning Group will consider the following criteria when deciding whether to procure services by inviting competitive tenders:
- The estimated values of contract;
 - The level of market interest and capability including potential for innovation;
 - Government policy on protected services;
 - The circumstances under which competition is not appropriate;
 - The quality of service provided by existing providers.

European Union Directive

14. The European Union Procurement Directives implemented into UK law by The Public Contracts Regulations 2006 apply to the award of contracts by public bodies.
15. Under the current Procurement Regulations, services are categorised as Part A or Part B services. Health and social care services are categorised as Part B services. Part A services include, for example, payroll services, patient transport services, cleaning services, consumables and equipment and commissioning support services.
16. The European Union Directive has two levels of application – a full regime for services designated as Part A where the value of the Part A contract exceeds the relevant threshold, and a lighter regime for other services designated as Part B. The table below illustrates how the regulations apply to Part A and Part B services.
17. To comply with the requirement for transparency, non-discrimination, proportionality and equality of treatment, Barnsley Clinical Commissioning Group will adopt approaches required for Part A services and will take appropriate action to ensure a fair playing field among providers.

Table 1: Requirements

	Part A	Part B
Sufficient degree of advertising to satisfy principles of transparency, non-discrimination of grounds of nationality, proportionality and equality of treatment	X	X
Tender advertised in the Official Journal of the European Union	X	
Compliance with specified minimum timescales for providers to respond to adverts, pre-qualification checks and tenders	X	
Competitive dialogue or negotiated procedure allowed only in specified circumstances	X	
Detailed rules on selection and award criteria; contracts awarded either on the basis of the lowest price or the most economically advantageous offer (but note: award criteria must still be fair and non-discriminatory in the case of Part B contracts)	X	
Provision of feedback to unsuccessful providers and standstill requirement after contract award and prior to contract execution (but note: the 'openness' principle may require that this should happen in practice in Part B contracts)	X	
Issue of contract award notice to European Commission within 48 days of award	X	X
Collation of relevant statistical data	X	X

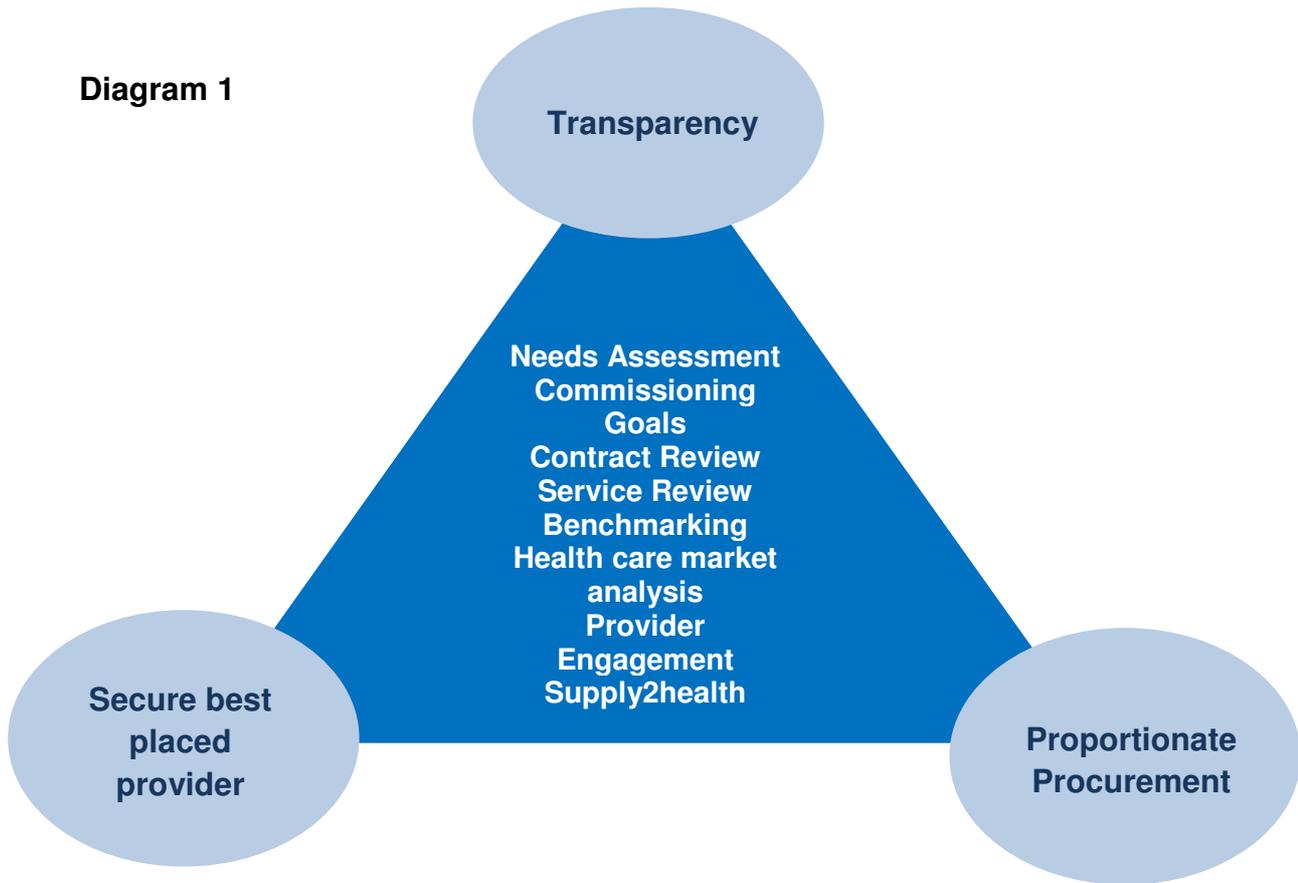
NHS Principles

18. The NHS Principles are outlined in the 'Procurement guide for commissioners of NHS-funded services' (July 2010) and the 'Framework for Managing Choice, Cooperation and Collaboration' (May 2008).

- Transparency
- Proportionality
- Non-discrimination
- Equality of Treatment

19. The following diagram (1) shows the Procurement balance:

Diagram 1



Barnsley Clinical Commissioning Group Procurement Principles

20. Table 2 below highlights ten procurement principles, which will be applied to all Barnsley Clinical Commissioning Group procurement exercises. This incorporates European Union and NHS principles.

Table 2 Procurement Principles:

Barnsley Clinical Commissioning Group - Procurement Principles	
1.	All procurements will comply with Barnsley Clinical Commissioning Groups vision, values and principles, along with the requirements of it's Prime Financial Policies and Standing Orders.
2.	All procurement processes and outcomes will be affordable, viable and represent value for money, and will result in safe, fair, sustainable, quality, efficient and effective services for patients.
3.	All procurements will comply with the requirements of the European procurement processes, where they apply.

Barnsley Clinical Commissioning Group -

Procurement Principles

4. All procurements will take account of the 'Procurement guide for commissioners of NHS-funded services'.
5. All procurements will take account of the 'NHS Framework for Managing Choice, Cooperation and Competition'. Specifically all procurements will be:
 - (a) Transparent – this includes transparency of what is to be competitively tendered, and of the tender process itself, including criteria for evaluation; including the use of sufficient and appropriate advertising of tenders, transparency in making decisions not to tender, and the declaration and separation of conflicts of interest.
 - (b) Proportional – Competitive tenders and procurement exercises will be scaled and appropriate to the size and complexity of the project. The costs of procurements both for the Clinical Commissioning Group and potential providers will be minimised wherever possible; making procurement processes proportionate to the value, complexity and risk of the services contracted, and critically not excluding potential providers through overly bureaucratic or burdensome proceedings.
 - (c) Objective – decisions to competitively tender will be evidence based where possible, evaluation criteria will be clearly defined, and award of contracts will be based on merit.
 - (d) Non-discriminatory – the nature of any procurement will not prevent any provider from participating, and the Clinical Commissioning Group will ensure a level playing field. All procurements will take full account of the Clinical Commissioning Group's policies on equality and diversity.
6. The Clinical Commissioning Group will publish its policies and processes for procurements, and will ensure that all procurements are compliant.
7. All procurements will ensure that all providers and sectors have equal opportunity to compete where appropriate; that financial and due diligence checks apply equally and are proportionate; and that pricing and payment regimes are transparent and fair.
8. In undertaking a procurement exercise consideration will be given to the impact on service stability.
9. Procurements will take into account the needs and views of patients and the public and other stakeholders.
10. The Clinical Commissioning Group will adopt an approach to pricing for services that is objective, transparent, and consistent with the PbR Code of Conduct.

The Procurement Options

Whether to carry out a procurement process

21. The first step is to assess whether a new healthcare service is required. Where an existing service is not being delivered to the required quality or quantity, the first step is to secure improvements through contract management, for example through payment mechanism, performance monitoring and/or dispute mechanisms. Only after these mechanisms have been exhausted should termination of the contract and its replacement with a new service be undertaken.
22. Having established that a new healthcare service is required, Barnsley Clinical Commissioning Group will first consider whether any existing contractual arrangements could be used to deliver the required services. Where there is a contract for healthcare services already in place, the Clinical Commissioning Group may be able to use the variation or change processes in that contract to secure incremental change to service provision, but only where change was envisaged in the contract and where this change does not materially alter the nature of the contract as originally procured such that it amounts to a new contract. This would be considered the case where:
- other providers would have been interested in bidding for the contract if the change had originally been part of the specification when the service was originally procured;
 - the contract would have been awarded to a different provider if the change had originally been included in the original service specification;
 - the change involves genuinely new services not originally within the scope of the specification covered by the contract;
 - there is a significant change in the value of the contract.
23. Barnsley Clinical Commissioning Group may be subject to challenge if contract variation was used inappropriately, and therefore the Clinical Commissioning Group will always take appropriate procurement advice before following this route.
24. Where none of these options is available, Barnsley Clinical Commissioning Group will consider their procurement options for letting a new contract.

The appropriate Procurement Route

25. The main procurement routes Barnsley Clinical Commissioning Group can consider are:

- to open the service to Any Qualified Provider and enable patients to choose from these providers;
- to establish a competitive tendering process to appoint a specific provider, a specified number of providers or collaboration of providers; or
- to appoint a specific provider or group of providers without competition (Single Tender Action).

26. The procurement route Barnsley Clinical Commissioning Group chooses depends on various factors including the nature, scale and importance of the required service, the urgency of the clinical need, the number of potential providers, patients' preferences, and whether the service is suitable for an Any Qualified Provider approach.

27. The rationale for all procurement decisions will be approved by the Clinical Commissioning Group Governing Body under permitted delegated authority. It will be documented formally to ensure transparency and accountability.

28. In addition, and where appropriate, care will be taken to structure any procurement process in a way that makes it fair and transparent to all bidders.

Patient Choice of Any Qualified Provider

29. Under Any Qualified Provider, any provider assessed as meeting the laid down rigorous quality requirements who can deliver services to NHS prices, under the NHS Standard Contract is able to deliver the service. Providers have no volume guarantees and patients will decide for themselves which providers to be referred to based on access and quality. This method of procurement is intended to empower patients and carers, improve their outcomes and experience and enable service innovation.

30. To determine whether Any Qualified Provider is appropriate for a given service, Barnsley Clinical Commissioning Group will consider the characteristics of the service and the local healthcare system. This will include whether the service lends itself to patient choice, an assessment of the current market, how much competition and choice there is now and how much is required and what the barriers to entry are.

31. The Directory of Qualified Providers will show whether similar opportunities for Any Qualified Provider for that service have been created elsewhere and what price and service specification are in place, giving Barnsley Clinical Commissioning Group a starting point for the procurement of that service.

32. One of the key features of the suitability of Any Qualified Provider is whether the circumstances of the service mean that patients would be in a position to

exercise choice. This means that Any Qualified Provider is more likely to be suitable for planned services than emergency services.

33. The Any Qualified Provider Resource Centre on the NHS Supply2Health website provides more information. Barnsley Clinical Commissioning Group will review this before deciding on commissioning services through Any Qualified Provider.
34. Where Barnsley Clinical Commissioning Group does decide to use the Any Qualified Provider route, it will determine the service specification and associated pricing structure (prices are determined through national or local tariffs) key contractual terms (e.g. referral pathways, service specifications, care pathways etc) and assessment criteria before advertising the opportunity to the market. Barnsley Clinical Commissioning Group will refer to existing service specifications and prices before placing the advertisement.
35. Once the opportunity is advertised, providers will be assessed using the consistent national qualification process and will qualify if they can:
- meet rigorous quality requirements;
 - meet the Terms and Conditions of the NHS Standard Contract;
 - accept the NHS price for the service;
 - provide assurances that they are capable of delivering the agreed service requirements that Barnsley Clinical Commissioning Group have set out and can comply with the defined referral protocols.

Competitive Tendering Process

36. Where there is more than one potential provider for a service and an Any Qualified Provider approach is not considered suitable, Barnsley Clinical Commissioning Group will elect to run a competitive tender process in order to award a contract. A competitive process will ensure fairness and help demonstrate value for money.
37. There are several types of competitive tendering processes:
- if a large number of providers are likely to be interested, Barnsley Clinical Commissioning Group will use a multi-stage tendering process to restrict the number of providers that are ultimately invited to bid. This will make the process more manageable and reduce costs both for the Clinical Commissioning Group and the bidders;
 - for a complex procurement or where the Clinical Commissioning Group is seeking innovative solutions or needs to work with the providers to develop the service model, it is more appropriate to use a process that allows for a dialogue with bidders.

No Competition – Single Tender Action

38. Where Barnsley Clinical Commissioning Group determine through analysis of the market and proportionate and transparent engagement with potential providers that the service is capable of being provided by only one particular provider, or there is an urgent clinical need to establish a contract for the service, the Clinical Commissioning Group will consider it appropriate to proceed with a Single Tender Action where a contract is awarded to a single provider, or a limited group of providers, without competition.
39. Barnsley Clinical Commissioning Group will record the rationale for the decision to proceed with a Single Tender Action. Where a service is put in place for reasons of urgency or safety, Barnsley Clinical Commissioning Group will consider this as an interim step and plan to undertake a competitive process as soon as possible.
40. In very limited circumstances, Barnsley Clinical Commissioning Group will award a contract to one provider to protect exclusive rights that the provider holds, but only if another provider cannot offer an equivalent service or way of providing the service, which would achieve the same outcome or aim.
41. Barnsley Clinical Commissioning Group will advertise a single tender opportunity in the same way as any for other contract opportunity to demonstrate transparency and equality of treatment and to determine that there really is only one capable provider. Barnsley Clinical Commissioning Group will ensure that it has evidence of the review and options appraisal that led to the decision that a Single Tender Action is appropriate.

Deciding whether to use the Competitive Tender Process

42. When deciding whether to use a Competitive Tender Process, Barnsley Clinical Commissioning Group will consider the following criteria:
 - Estimated Value of the contract - the greater the value, the stronger the case for advertising the competitive tender.
 - Level of market interest and capability - the larger the number of potential providers the stronger the case for advertising the tender. This could override considerations based on the value of the contract.
 - Government Policy on Protected services - where the Clinical Commissioning Group can demonstrate that using a particular provider protects the public interest then a tender is unlikely to be necessary. (This must not be used to protect providers that are not best placed to deliver the needs of their patients and population).
 - Is competition appropriate?

- i. Is there only one supplier capable of providing the service due to technical reasons or special or exclusive rights?
- ii. Do urgency considerations, due to factors beyond the Clinical Commissioning Group's control, preclude an advertised tender?
- iii. Are the services protected by monopoly rights in accordance with a legal or administrative instrument?

43. The transparency principle imposes an obligation to carry out a sufficient level of advertising, but does not necessarily imply an obligation to conduct a formal tender procedure in full accordance with procurement rules. The Clinical Commissioning Group will assess the local context and each circumstance, and decide whether a formal procurement is desirable on the grounds of demonstrating best value, maintaining some element of competitive tension and complying with the public procurement rules. Use of single tender actions and urgency exemptions will be avoided except where robust reasons can be given.

The Decision Making Process

44. Diagram 2 below is a summary of the decision making process for Procurement.

The Process for Procurement

Advertising the Procurement

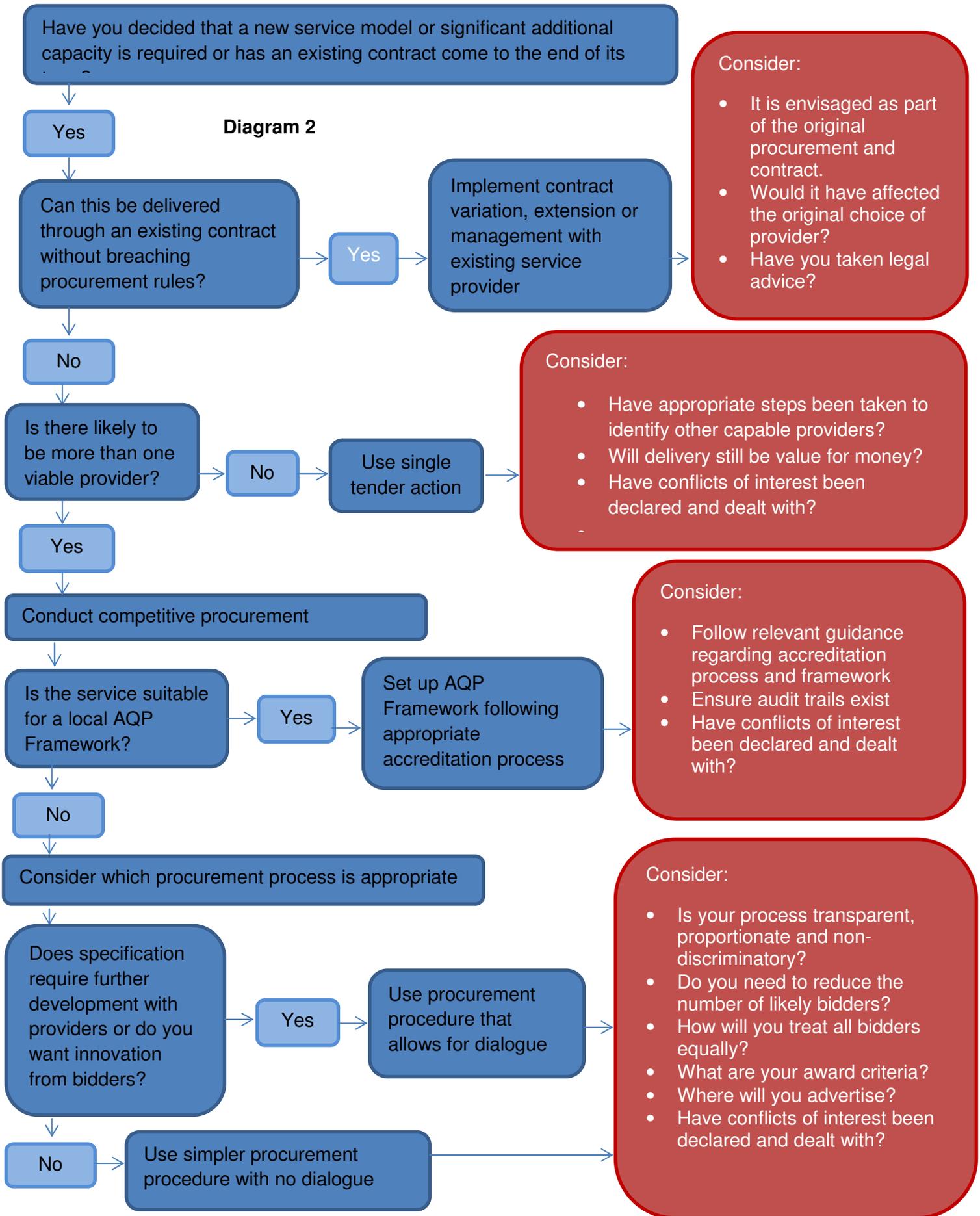
45. Where Barnsley Clinical Commissioning Group decides to proceed with procurement, the Clinical Commissioning Group will notify potential providers via NHS Supply2Health and, where appropriate, the Official Journal of the European Union, where there is likely to be cross-border interest in the contract or it is a high value contract.

46. Advertising of the procurement will provide sufficient detail of the services; what they are, how they are to be delivered, how they are to be priced, expected outcomes etc., and how Barnsley Clinical Commissioning Group will award the contract. This will allow bidders to clearly understand the requirements and express interest in providing the service.

47. If an Any Qualified Provider approach is being adopted by the Clinical Commissioning Group, the Clinical Commissioning Group will advertise so that providers are able to respond to the opportunity.

48. Where using Commissioning Support services to carry out procurements, Barnsley Clinical Commissioning Group will develop and sign off service plans and service specifications, and decide upon the appropriate procurement route and ensure that the advert correctly reflects the Clinical Commissioning Group's intentions.

Diagram 2



Inviting providers to respond to requirements

49. Once the form of procurement has been decided Barnsley Clinical Commissioning Group will issue a form of 'invitation to tender' or 'invitation to participate in a dialogue', which will specify the clinical and other requirements that the providers will need to meet, how providers should demonstrate their ability to meet those requirements, the process by which the Clinical Commissioning Group will choose its preferred provider (the method of shortlisting, terms of any negotiation etc.) and the criteria that the Clinical Commissioning Group will use to evaluate the providers' responses.
50. The invitation will set out the timetable of the process, which will be realistically set with adequate time included for each stage. It will also include the pricing strategy that will be adopted, the type of contract being offered; any associated contractual requirements and the length of the opportunity.
51. When using Commissioning Support services to support the procurement process Barnsley Clinical Commissioning Group will ensure that the invitation correctly reflects the Clinical Commissioning Group's intentions and the Clinical Commissioning Group will determine the evaluation criteria that reflect the Clinical Commissioning Group's priorities and requirements.

Evaluating the Responses

52. Once a contract opportunity has been offered, Barnsley Clinical Commissioning Group will then use a non-discriminatory, transparent, proportionate and objective process to evaluate the responses.
53. The evaluation and scoring processes adopted by Barnsley Clinical Commissioning Group will be stated at the time of the offer so that providers understand how the procurement process will be operated.
54. If Barnsley Clinical Commissioning Group wishes to shortlist providers before evaluating bids, a pre-qualification process will be adopted.
55. If Barnsley Clinical Commissioning Group explore with providers new solutions and ways of working, the Clinical Commissioning Group will use a procedure involving dialogue with all bidders.
56. Public procurement policy usually requires that commissioners award contracts by selecting the Most Economically Advantageous Tender. This means that, rather than simply accepting the lowest price, commissioners take into account overall value for money by considering factors such as quality and business risk. Barnsley Clinical Commissioning Group will adhere to these requirements.
57. For Any Qualified Provider, Barnsley Clinical Commissioning Group will provide a clear explanation of the way in which providers will be assessed when responding to the opportunity being offered.

58. Where Barnsley Clinical Commissioning Group uses Commissioning Support services, the Clinical Commissioning Group will still be involved in the evaluation process to ensure that it is carried out appropriately and the Clinical Commissioning Group will always make the final decision about any appointment.

Standstill period

59. A standstill period is a period of at least 10 days between the decision to award a public contract and the signing of the contract. This is intended to give unsuccessful tenderers an opportunity to challenge the decision before their rights to obtain relief other than damages are closed off.

60. Although the Procurement Regulations do not require a standstill period for Part B services, recent case law has determined that in some cases, for high-value contracts or where there is likely to be cross-border interest, all procurement processes should include a standstill period. Barnsley Clinical Commissioning Group will therefore include a standstill period in any procurement process.

Contract Award

61. Contract awards over £100,000 are required to be published on NHS Supply2Health. In addition, in keeping with Cabinet Office rules for public procurement, all public bodies, including NHS commissioners, are required to publish details of all contracts awarded over £10,000 in Contracts Finder, including the name and address of the provider, the scope of services, contract value and expiry date. Barnsley Clinical Commissioning Group will therefore publish details of all contracts awarded over £10,000.

62. Where Barnsley Clinical Commissioning Group uses Commissioning Support services, the Clinical Commissioning Group will check that these requirements are met.

The Process for Managing Major Procurements

63. This section seeks to establish an agreed process for managing major service procurements undertaken by Barnsley Clinical Commissioning Group. The process will ensure that there is a consistent, fair and transparent approach to procurement and contract award.

64. For all developments valued over £113,057 + VAT where competitive tendering is employed the following process will be implemented.

65. The Governance structure will operate at three levels shown in table 3:

Table 3: The Governance Structure

Governance Structure		
<p>Level 1 Barnsley Clinical Commissioning Group Governing Body Members (excluding any member who may have a potential conflict of interest).</p>	<p>Barnsley Clinical Commissioning Group Governing Body Members</p>	<ul style="list-style-type: none"> • Agree the business case • Agree the procurement route • Endorse the decision on the preferred bidder • Give authority to award the contract
<p>Level 2 Chaired by Lay Vice Chair with Finance and Clinical representation</p>	<p>Procurement Assurance Group (reporting to the Finance and Performance Committee)</p>	<ul style="list-style-type: none"> • Monitor and assure work of procurement team • Establish a project team, timeline and budget • Sign off the shortlist of bidders, the evaluation scoring criteria, the recommendation to the Governing Body to appoint a preferred bidder and the award of the Contract • Assure the Governing Body on the process
<p>Level 3 Clinical Commissioning Group Officers and Clinical Advisors</p>	<p>The Procurement Team</p>	<ul style="list-style-type: none"> • Manage the procurement • Develop all tender documents • Propose the evaluation scoring • Evaluate assessment and negotiate the contract • Prepare update and briefing reports for the Procurement Assurance Group and Governing Body.

66. Barnsley Clinical Commissioning Group Governing Body under delegated authority will:

- Establish the strategic direction for service development
- Agree the business case for the development which will include:
 - i. case of need
 - ii. priority outcomes for the scheme
 - iii. outline cost
 - iv. timescale for the process
- Agree the procurement route for the service
- Receive recommendations from the project team on the preferred bidder and review the justification and evidence for that decision
- Award the contract
- Receive regular progress reports on the development of the scheme.

67. The Procurement Assurance Group will:

- Monitor and assure the work of the project team, agreeing a clear timeline and budget for the project reporting regularly to the Governing Body through the Chief Officer
- Approve the tender documentation submitted by the project team
- Assess and approve the evaluation reports from the project team
- Sign off the shortlist of bidders
- Receive monthly reports from the project team
- Agree the evaluation scoring proposals for the scheme
- Review the project team's preferred bidder recommendation prior to submission to the Governing Body
- Monitor the scheme progress and take action to ensure the scheme is delivered on time and within budget.

68. For each major procurement, a Procurement Assurance Group will be established, chaired by the Lay Vice Chair and with representation from Finance and the lead GP on Finance from the Governing Body. The Procurement Assurance Group will be serviced by a Project Commissioning Lead, and overseen by the Head of Corporate Affairs.

69. The Procurement Assurance Group will meet periodically as necessary to carry out its task; the frequency of meetings will depend on the size of the scheme.

The Procurement Team

70. The Procurement Team will be appointed by the Chief Officer and will be responsible for:

- The day to day management and delivery of the process
- The generation of Documentation (all letters, tender documents etc.)

- Clarifications and responses to the bidders questions
- The evaluation of proposals and recommendations to the Procurement Assurance Group regarding shortlisting
- Recommending the Preferred Bidder(s) and contract award(s) to the Procurement Assurance Group and the Governing Body for review and approval
- Internal and external communication and delivery.

71. The membership of the Procurement Team will be the:

- Project Lead/Manager
 - Procurement Advisor
 - Clinical Governance Lead
 - Finance Lead
 - IM&T representative
 - HR Advisor
 - Legal Advisor
 - Evaluation Support)
- } as required

72. The Procurement Team will meet periodically (excluding the Legal Advisor, Evaluation Support, IM&T representative and HR Advisor who would attend as required) and will for each meeting provide and issue the Procurement Assurance Group with:

- an updated procurement plan
- a revised action plan
- minutes from the meeting of the Procurement Team
- a monthly update report to support the above documentation

Confidentiality and Conflicts of Interest

73. All tenders must comply with Barnsley Clinical Commissioning Group's Prime Financial Policies and Standing Orders. To protect the integrity of the process, all stages of the process are to be treated as commercially sensitive/confidential, unless required by statute to disclose at any stage of the process.

74. It is also essential that all members of the Procurement Team, Procurement Assurance Group and Clinical Commissioning Group Governing Body who will be part of any disclosure will be asked to confirm that they have no potential conflict of interest in the procurement process and that any information they are party to will be treated as confidential and not discussed or disclosed outside of the forum it is disclosed within. The Clinical Commissioning Group Policy on Conflict of Interest applies at all stages of the process.

75. All members of the Procurement Assurance Group and Procurement Team will be either directly employed or subcontracted by the Clinical Commissioning Group.

Relevant processes will be established to ensure that there are no breaches of confidentiality.

76. When procuring services from GP Practices, including providing consortia, or organisations in which GPs have a financial interest, the Clinical Commissioning Group when making its decisions should ensure that it completes the template for commissioning such services attached as template 1 to this policy. This will ensure that the Governing Body can assure the Membership Council and other interested parties that the Clinical Commissioning Group has taken appropriate steps in making this decision.

Procurement Planning

77. Barnsley Clinical Commissioning Group will produce a procurement plan, which will be maintained that will list all current and future procurements. The procurement plan will be reviewed on a regular basis taking into account local and national priorities, the Clinical Commissioning Group's Commissioning Plan (intentions) and nationally mandated procurements. In addition, it will take into account the impact of completed and on-going procurements.

78. The plan will highlight the priority, timescale, risk and resource for each potential procurement. Not every priority on the procurement plan will result in a procurement process, but the plan indicates the intention of the Clinical Commissioning Group to review the service or activity, which may result in a procurement process.

79. The plan is a key document, along with the Annual Commissioning Plan and Strategic Plan, to provide communication between Barnsley Clinical Commissioning Group and providers. Through transparent and open processes, the Clinical Commissioning Group will actively encourage provider engagement at an early stage of any procurement, particularly in the case where the Clinical Commissioning Group is reviewing existing services with existing providers.

80. The procurement plan will consider the issues in Table 4:

Table 4: Considerations in Procurement Planning

Assess relevant markets	
What is the need?	Are new services required in terms of new treatments or additional and discrete new provision?
Market Structure	Assess local, regional and national markets in terms of where services are provided along current or desired patient pathways (vertical market structure). Assess the number of local and regional provider organisations and understand current market structure (horizontal market structure).

Competition	Assess behaviours that demonstrate competitive tension and responsiveness to patients and commissioner needs. Is there a case for introducing (more) competition to address choice, quality, efficiency or responsiveness?
Innovation	Assess developments in the market in other regions and international benchmarks.
Interest	Assess market interest in opportunities, transparently and without discrimination, including whether a contract may be of interest to a provider from a member state.
Evaluate existing contracts	
Performance	Analyse current provider's performance – are they meeting expectations and seeking quality improvements? Will a re-tender/new tender have a positive impact on the end user?
Efficiency	Are services being delivered efficiently? Is productivity in line with services delivered elsewhere including internationally?
Demand	Is demand being managed effectively?
Fitness	Are current contracts fit for purpose in light of future need and requirements?
Evaluate procurement options (especially in relation to market structure)	
Outcomes	Review outcomes from previous procurements, particularly of similar services and with regards to the size/structure/number of contracts and contract lots.
Attractiveness	Based on the market assessment and proposed risk-sharing arrangements. Determine the scale and attractiveness of the opportunity to providers (existing providers, existing or potential market).
'lots'	Assess whether the needs of the population would be best served by single or multiple contracts (Separate 'lots' are required in multiple tenders), and approaches to achieving seamless pathways of care.
Multi-source	The (Any Qualified Provider) multi-sourcing approach offers a number of potential benefits including: <ul style="list-style-type: none"> • providing scope for continuing to exert a degree of competitive pressure between providers; • access to a wider range of resources and approaches than might otherwise be possible, and to pilot or run with different approaches in parallel; and • Continuous improvement.

Single-sources	The potential benefits of a single provider approach include: <ul style="list-style-type: none"> • flexibility in bringing about business change; • potential for servicing the entire requirement at a lower total cost than with multiple providers, through economies of scale; • Reduced contract management overheads.
Evaluate procurement routes	
Advice	Seek external advice for help on the procurement routes.
Other	Determine other routes that are proportionate for the scale, complexity and risk associated with the services to be purchased and the market to be managed.

81. The procurement route decision making process is shown in Diagram 1, above.

External Support and Advice

82. Barnsley Clinical Commissioning Group has a contractual arrangement with South Yorkshire and Bassetlaw Commissioning Support Unit that will provide the Procurement support function and other support for the Clinical Commissioning Group.

83. Non-healthcare procurements are subject to the same rules and regulations as detailed in Barnsley Clinical Commissioning Group's Standing Orders and Official Journal of the European Union guidance. The Commissioning Support Unit will assist the Clinical Commissioning Group in some non-healthcare procurement; this will be reviewed along with other service offers during 2013/14.

Collaborative and Joint Commissioning

84. Where procurement is the subject of joint commissioning between several commissioners or with Local Authority partners, decision-making will be consistent with the rules of engagement set out in the governance framework for those joint commissioning arrangements.

85. Barnsley Clinical Commissioning Group recognise that 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 difference will be clearly articulated in any joint procurement decision.

Sustainable Procurement

86. The NHS is a major employer and economic force both in Barnsley, and within the wider North of England region. Barnsley Clinical Commissioning Group recognises the impact of its' purchasing and procurement decisions on the regional economy, and the positive contribution it can make to the economy of Barnsley. Therefore Barnsley Clinical Commissioning Group 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.
87. Wherever it is possible, and does not contradict or contravene Barnsley Clinical Commissioning Group's procurement principles, the Clinical Commissioning Group will work to develop and support a sustainable local health economy, working with other public sector organisations to deliver innovative projects to the local population whilst developing the local supplier base.

Market Development Plan

88. A market development plan will be produced to support this Procurement Strategy; a first draft of this plan will be available at the end of 2013.



Barnsley Clinical Commissioning Group

Commissioning services from GP Practices

This template is to be used when commissioning services from GP Practices, including provider consortia, or organisations in which GPs have a financial interest.

NHS Barnsley Clinical Commissioning Group

Service:	
Question	Comment/Evidence
Questions for all three procurement routes	
How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the Clinical Commissioning Group’s proposed commissioning priorities?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board? How does the proposal support the priorities in the relevant joint health and wellbeing strategy?	
What are the proposals for monitoring the quality of the service?	

What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers, which are publicly available?	
Why have you chosen this procurement route?	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the Clinical Commissioning Group make its final commissioning decision in ways that preserve the integrity of the decision-making process?	

Additional question for AQP or single tender (for services where national tariffs do not apply)	
How have you determined a fair price for the service?	

Additional questions for AQP only (where GP practices are likely to be qualified providers)	
How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	

Additional questions for single tenders from GP providers	
What steps have been taken to demonstrate that there are no other providers that could deliver this service?	
In what ways does the proposed service go beyond what GP practices should be expected to provide under the GP contract?	

What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?