

Provider Selection Regime: Call-Off Guidance for in scope Framework Agreements

Wondering if you can still utilise NHS SBS's wide range of healthcare service framework agreements now that the PSR is live? The answer is **YES**, and this short and simple guide tells you how.

1. Introduction

The **Provider Selection Regime** (PSR) regulations came into force on 1 January 2024.

The PSR is a set of new rules for procuring health care services in England by organisations termed relevant authorities which includes:

- NHS England
- Integrated care boards (ICBs)
- NHS trusts and NHS foundation trusts
- Local authorities and combined authorities.

The PSR has been introduced by regulations made under the Health and Care Act 2022. In keeping with the intent of the Act, the PSR has been designed to:

- introduce a flexible and proportionate process for deciding who should provide health care services
- provide a framework that allows collaboration to flourish across systems
- ensure that all decisions are made in the best interest of patients and service users.

The PSR has introduced three provider selection processes that relevant authorities can follow to award contracts for health care services. For more information on these processes and how to implement them, please follow the link to the NHS England website: [NHS commissioning » NHS Provider Selection Regime \(england.nhs.uk\)](https://www.england.nhs.uk/commissioning/provider-selection-regime/)

2. In scope NHS SBS Framework Agreements

The CPV codes adopted by the PSR were defined by **Regulation (EC) No 2195/2002** of the European Parliament and of the Council, as amended from time to time.

Health care services in scope of the regime must fall within one or more of the adopted CPV codes and the services within those codes must represent the majority of the overall requirement where a range of codes would be relevant (mixed procurement). Further details regarding mixed procurement is available in the statutory guidance: [NHS England » The Provider Selection Regime: statutory guidance](#).

The full list of CPV codes corresponds to services covered by the regime and can be found in Annex A within the draft statutory guidance: [NHS England » The Provider Selection Regime: draft statutory guidance](#)

The following NHS SBS framework agreements have been tendered under the CPV codes adopted by the PSR and therefore this guidance is relevant to them:

- **Orthotic Products and Services** – lot dependant. Please contact the Health Category team for further guidance.
- **Clinical Managed Services**
- **Reporting Services: Teleradiology**
- **Insourcing of Clinical Services**
- **Acute and Community Health & Social Care Equipment Products and Services** – lot dependant. Please contact the team for further guidance.
- **Advanced Wound care & Lymphoedema Products and Services** – lot dependant. Please contact the team for further guidance.
- **Outsourced Clinical Services**
- **Artificial Intelligence (AI), Imaging and Radiotherapy Equipment, Associated Products and Diagnostic Imaging** – lot dependant. Please contact the team for further guidance.
- **Surgical Robots, Consumables and Related Services** – lot dependant. Please contact the team for further guidance.
- **Technology Enabled Care Services 2** – lot dependant. Please contact the team for further guidance.

All other NHS SBS framework agreements have been tendered under CPV codes not in scope of the PSR and therefore authorities should continue to call-off via direct award or run further competitions under the Public Contracts Regulations (PCR) 2015.

3. Framework Agreement Call-off Guidance

The PSR recognises that there are existing framework agreements established under the PCR 2015 which deal with the procurement of health care services. **These framework agreements remain a compliant route to market under the new Health Care Services (Provider Selection Regime) Regulations 2023:** [NHS England » The Provider Selection Regime: statutory guidance](#)

The Regulations set out that all new contracts from 1 January 2024 must be awarded under PSR rules if the award process did not start before 1 January 2024. Therefore, this means that from 1 January 2024, if relevant authorities are looking to direct award contracts or run further competitions based on existing NHS SBS framework agreements which are within scope of PSR, then they must comply with PSR procedures to call off from the framework agreement in addition to complying with the further competition requirements of the framework.

However, if a relevant authority has commenced a contract award under an existing framework agreement prior to the PSR implementation date of 1 January 2024, and the contract has not been awarded by that date, then they must continue to utilise the PCR. For these purposes, a contract award procedure will be considered to have “commenced” where:

- a contract notice has been published prior to the PSR Implementation Date;
- the relevant authority has published a form of advertisement / contacted a provider in order to seek expressions of interest;
- the authority has responded to an unsolicited expression of interest or offer received from a provider in relation to a proposed framework agreement.

3.1 Conflicts of Interest

Relevant authorities must take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising during the application of the PSR. Therefore, Relevant Authorities must ensure that conflicts of interest are managed in line with Regulation 21 and with the Relevant Authority’s wider conflicts of interest policy.

3.2 Scope

The scope of the PSR is set out in Regulation 3. Relevant Authorities must ensure that the service being arranged is in scope of the PSR i.e. that the services are health care services or can be procured under the PSR as a mixed procurement.

3.3 Key Criteria

When calling off from a framework agreement in accordance with PSR via further competition, it is essential that Relevant Authorities consider the following five key criteria:

1. Quality and innovation
2. Value
3. Integration, collaboration and service sustainability
4. Improving access, reducing health inequalities and facilitating choice
5. Social Value

This is not required for call-off contracts via direct award.

If you would like to understand how a particular framework agreement has addressed the key criteria, please contact the team.

3.4 Standstill and Transparency Requirements

There are also new Standstill and Transparency requirements under the PSR process. The statutory guidance provides details on the standstill period: [NHS England » The Provider Selection Regime: statutory guidance](#) and for further information on transparency notice requirements in relation to framework agreements, please read Annex B within the NHS England draft statutory guidance (second table): [NHS England » The Provider Selection Regime: draft statutory guidance](#)

Still have questions?

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